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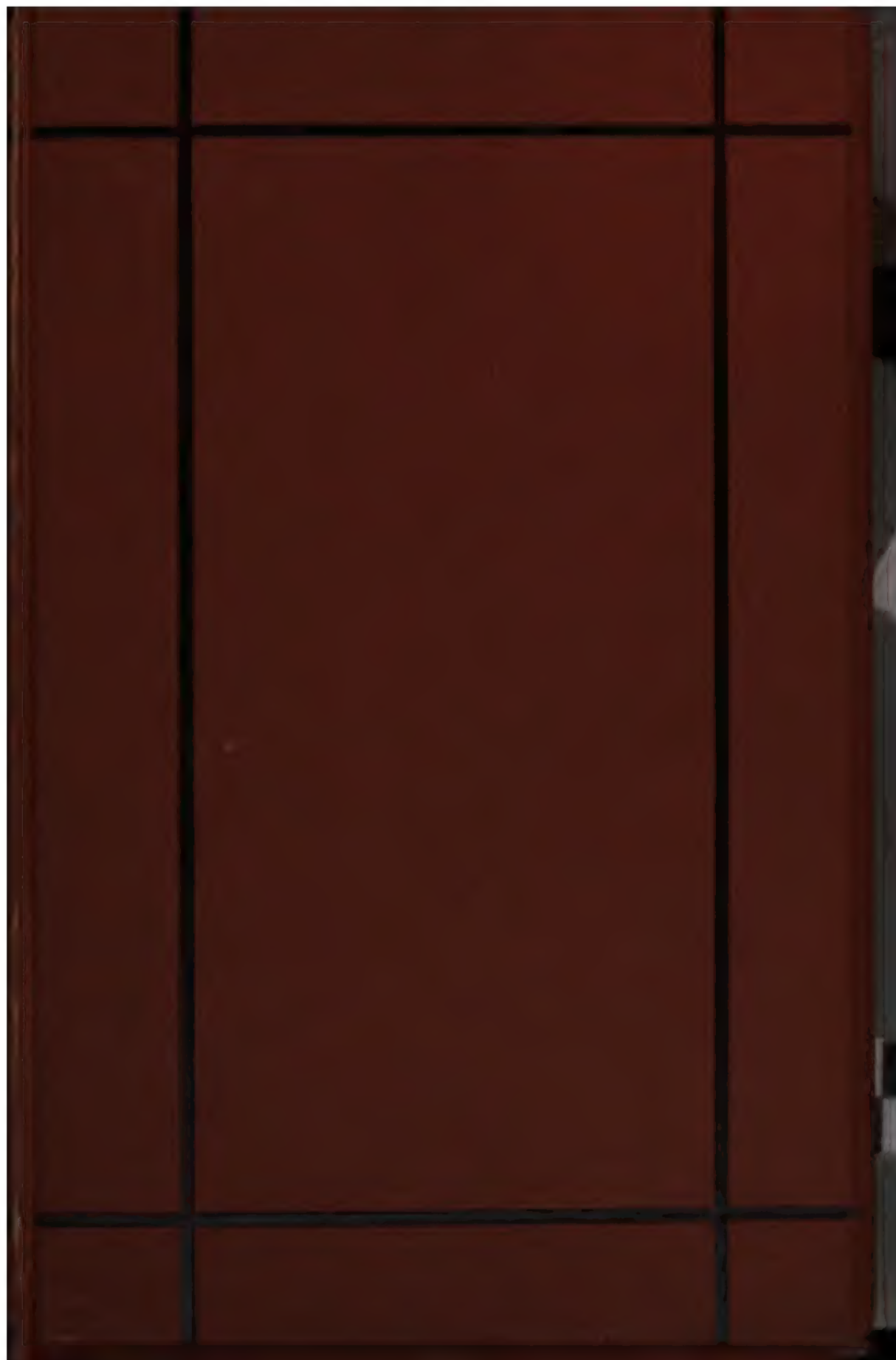
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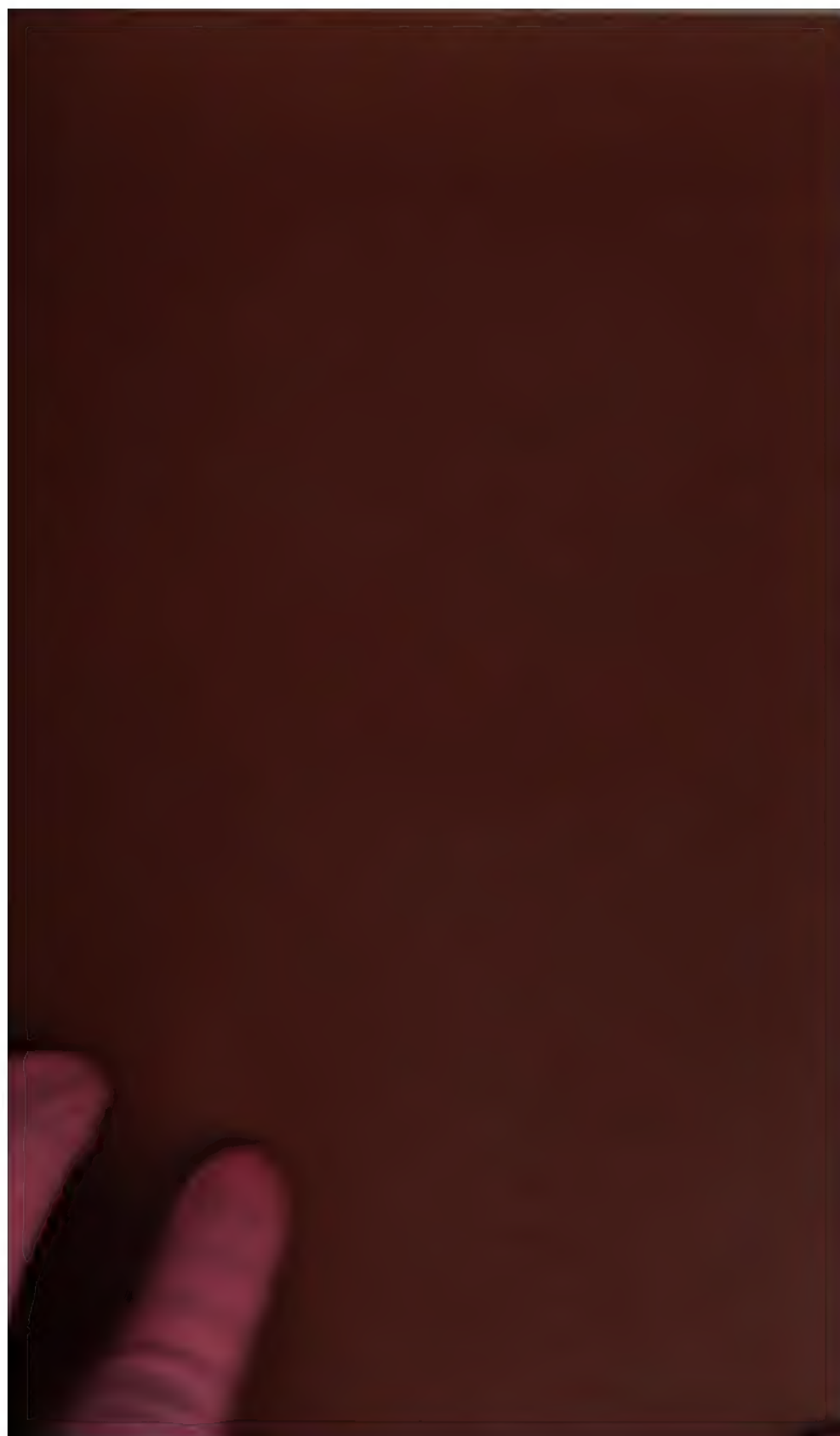
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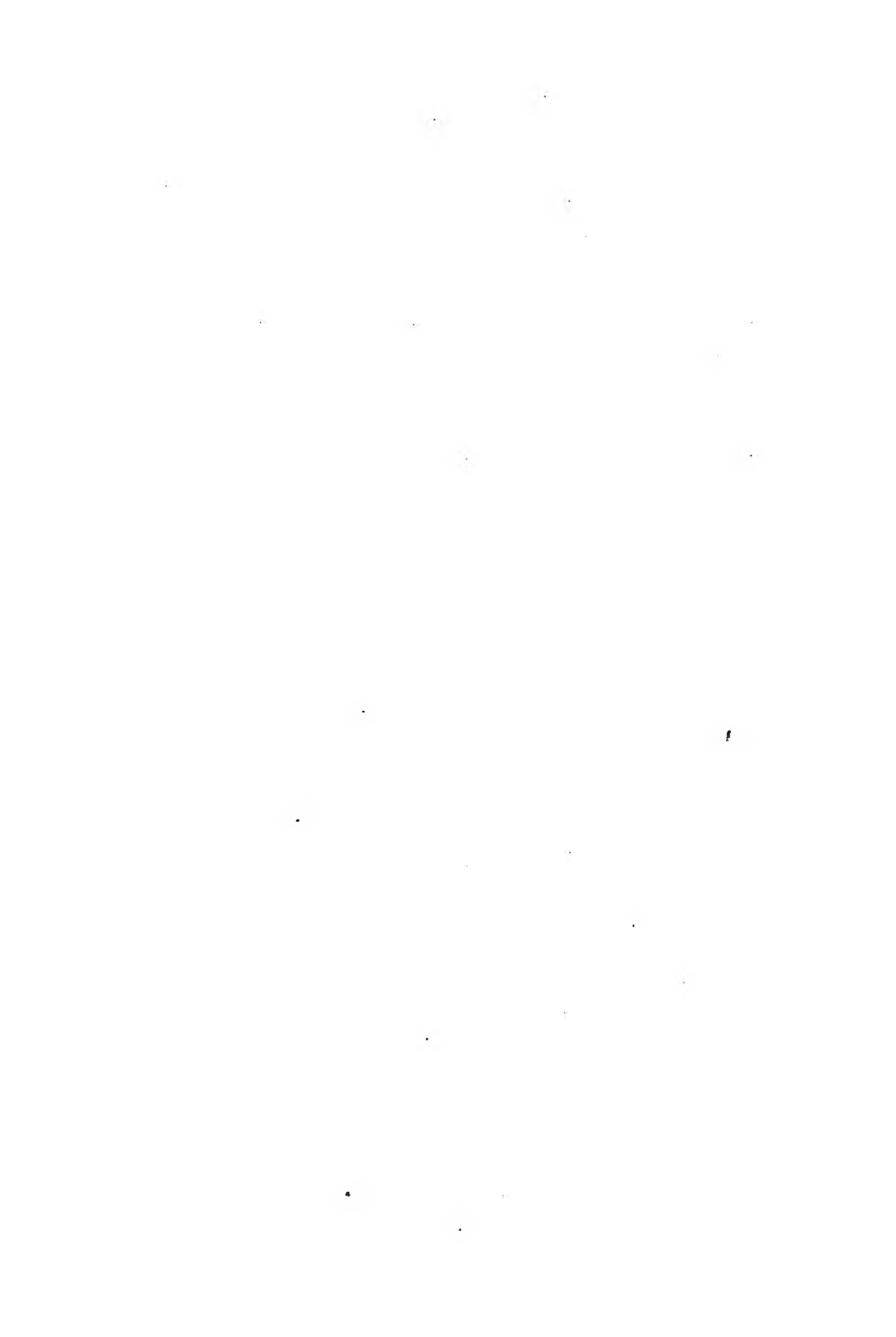




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THE  
CONSTITUTIONAL  
AND  
POLITICAL HISTORY  
OF THE  
UNITED STATES.

BY  
DR. H. VON HOLST,  
PROFESSOR AT THE UNIVERSITY OF FREIBURG.

TRANSLATED FROM THE GERMAN BY  
JOHN J. LALOR.

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1854—1856.  
KANSAS-NEBRASKA BILL—BUCHANAN'S ELECTION.

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# KANSAS-NEBRASKA BILL

TO

## BUCHANAN'S ELECTION.

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### CHAPTER I

#### FRUITLESS EFFORTS AT ANNEXATION.

The final result of the sectional quarrel proved that the south, so far as the slavery question was concerned, was not entitled to boast of the great statesmanlike superiority which it is wont to be credited with, at that time, even in the north, and which is considered an incontrovertible fact. The slavocracy knew how to win, but every victory impelled it, with increased force, towards its destruction. Its policy was, therefore, in the highest degree, unstatesmanlike. What it considered political wisdom was only tactical mastery. Its judgment in respect to the means with which it pursued its suicidal ends, suffered from this dangerous confusion. What had once rendered it good service, it ever afterwards employed and in still greater measure, without any regard for the fact that, by its doing so, it most effectually revealed the untruthfulness of its whole game. Many who two years ago had still believed, in honest self-deception, in "finality," now had their eyes opened, by the very fact that Douglas again bore the ban-

ner of peace before the storming columns of the slavocracy. What but a short time since had been an illusion now appeared a clumsy pitfall. That a one-sided conclusion of peace was an absurdity, needed no proof. War to the last, with all legal means, was the watchword of the defeated. Hence the victors could not give peace to the country, even if they had wished to do so. The only question now was whether they would endeavor to fall back on the defensive, that is confine themselves to the maintenance of what they had achieved, or whether they intended to continue to act on the aggressive, for it has already been shown that the nature of the contest of the slavocracy made a standstill impossible.

In the debates on the Kansas-Nebraska bill, it was repeatedly said by distinguished representatives of the south, that they were not so foolish as to expect that Kansas could become a slave state. It would not be warranted to draw from the subsequent history of the Kansas question, the conclusion that this could not have been the true opinion of these gentlemen. Still more unwarranted would be the other conclusion, that all they cared about was to see their constitutional doctrine in reference to the territories recognized, although they anticipated no real advantage therefrom. The more probable it was to them that "the great principle" of the bill would prove fruitless here, the more certain was it that the turning of it to practical account, in other places, was intended. It was not the "fanatics" of the north alone who entertained this suspicion. The charge was made in the most precise form by a man who must have been intimately acquainted with the political instincts, the tactical methods and the ultimate wishes of the slavocracy, since he had been for more than three decades, one of its most distinguished leaders. On the 19th of May, a few days before the

Kansas bill became a law, Benton declared in the house of representatives, that that bill was only the introduction to far-reaching projects.<sup>1</sup> And he thereby intended not only to express a fear but to state a fact. For some time the periodical fever of annexation had raged so violently that the press devoted space enough to it to excite the attention of the whole people. The epidemic had already extended so far that less observant men than Benton had recognized that there was a causal connection between it and the Kansas bill, and that there was method in the madness of those whom the fever had attacked. Another thing certain was, that there were two foci of the disease, one in official and one in non-official circles; of the relation of the two to one another, however, nothing definite could at the time be said.

A proclamation of the president of January 18, 1854, had informed the people that an expedition against Mexico had been fitted out in California, and that other expeditions, with the same illegal object in view, were to be fitted out in the United States.<sup>2</sup> In what other states attacks on Mexico were projected, and what their presumptive object was, was not said. The president confined himself to warning all citizens and inhabitants of the United States against such undertakings and threatening the guilty with all the severity of the laws. The annual message of December 4, 1854, lauded the organs of government for the energy with which they had prevented the violation of the obligations of the United States to friendly powers; only two expeditions of which

<sup>1</sup> " . . . this Nebraska bill is only an entering wedge to future enterprises—a thing manufactured for a particular purpose—a stepping stone to a grand movement which is to develop itself in this country of ours." *Congr. Globe*, 1st Sess., 33d Congt., p. 1233.

<sup>2</sup> *Statesman & Man*, **III.**, p. 2042.

one had been favored, in the beginning, by the misled Mexican government itself, had escaped their vigilance.<sup>1</sup>

Was this really a success which placed the activity and energy of the organs of government in a brilliant light or did the consciousness of guilt seek to hide itself behind this bold self-praise? In the former case the spirit of filibusterism must have been very active,<sup>2</sup> and must have influenced large circles of the population, and in the latter, it was a question whether the administration should be accused only of weakness, or whether it had not done its duty, because it too craved for the inheritance of its sick neighbor.

Scarcely had Pierce moved into the White House, when the Washington correspondent of the *Democratic Journal of Commerce* wrote that the test of the strength of the administration would be its capacity to preserve peace. The *New York Tribune* greeted this announcement with scorn, but at the same time said that no one was so foolish as to believe that the Democrats thought of fulfilling the great promises in respect to the foreign policy of the country of which they were so prodigal before the presidential election.<sup>3</sup> If in

<sup>1</sup> *Id.* p. 2065.

<sup>2</sup> *Blackwood's Magazine* says in an article entitled *Nicaragua and the Filibusters*: "As filibusterism is now used, it expresses the action of the American people, or a portion of the people, in the acquisition of territory which does not belong to them, unrequited by the responsibilities of the American government."

<sup>3</sup> "The sovereign people of the United States, and the United States government are two distinct bodies influenced by different motives. The government is charged to maintain the appearance of keeping faith with other friendly powers, but at the same time is so anxious to gain popularity at home that it does not take really effective measures to check any popular movement however illegal it may be if favored by the majority of the people." DeBow, *Commercial Review*, XX, p. 670.

<sup>4</sup> "We know of nobody bent upon war unless it be the filibusters."

saying so, the *Tribune* had in view only the rhetorical enthusiasm for freedom of the Kosanth period and the revolutionary rodomontades of young America, it might have been right. But if it was trying to convince itself that the cupidity which young America had so boldly advertised was only so much comedy, or that the administration would not try to carry out that programme, the laughers might soon be found on the other side. A great and bold policy was certainly not to be expected of Pierce. But only blind partisans could have claimed such a policy for Polk, and yet he had achieved great things. Why should it be impossible or even only improbable that Pierce, stimulated by this example, would endeavor to achieve similar success with the same shrewdness, the same tenacity and the same breadth of conscience in respect to the choice of means? He was, in a certain sense and to a certain degree, pledged to an influential fraction of his own party to at least make an attempt of this kind; another and still more powerful fraction pushed forward in the same direction, and tempting opportunities presented themselves in abundance. The more, as a public character, he resembled a flexible reed, the more it was to be presumed that he

of its (the administration) own party. . . . We have been told all along that a brilliant foreign policy was to characterize the new administration, one that would contrast strongly with what has been termed the pusillanimity of the Whigs. But lo! here at the start we are apprised that the existing administration find the momentum of affairs already too great, and that the brakes must be forthwith applied to arrest it. These were useless fears. "It is well understood that all that has been said about manifest destiny—a bold foreign policy—asking for nothing but what is right, and submitting to nothing that is wrong—annexation of Cuba—driving England out of Honduras, etc. etc., is nothing but gas, and only intended for bunkum. No gentlemen, be not alarmed. Nobody expects you to do anything in particular, but to belie your professions." The *N. Y. Tribune*, March 18, 1853.



would not resist this pressure, even if his personal ambition, was not great enough to overcome the opposing considerations. And so his marrowless mediocrity as a statesman suggested the conclusion that the manifestations of the filibusters were very displeasing to him. If these modern caricatures of the old conquistadores pursued the same ends to a greater or less extent, it was very doubtful whether he could, on that account, look upon them as allies. Perhaps it became apparent at last that the fruit could be obtained only on condition that they were used to shake it from the tree, and hence it was to be expected that they would be always treated with as much indulgence as possible. But so long as the fruitlessness of Pierce's endeavors had not been proven to a demonstration, he was only very greatly compromised on every hand by them, and it could easily happen that the efforts of the administration might be frustrated by their attacks. Precisely on this account was the proclamation of the 15th of January honestly intended, because Pierce followed in the footsteps of Polk and hoped to make his administration forever memorable by extensive alterations in the map of the United States.

When the proclamation against the filibusters was issued, the first attempt at the realization of these lofty designs had already in the main failed. This much had been rumored, but nothing reliable as to the details had penetrated among the people. It was known that the ambassador, James Gadsden, had been instructed to enter into negotiations with Santa Anna for a treaty which contemplated new acquisitions of land from Mexico, and which was to settle the differences which had arisen between the two powers, under the treaty of peace of Guadalupe Hidalgo, and especially to free the United States from the onerous obligations entered into by the

11th article of that treaty. It was said that Gadsden had been authorized to offer fifteen millions of dollars, if the new boundary line was so drawn from sea to sea that Santander, Saltillo, Parras, Sonora and all Lower California should fall to the United States. This might, for a moment, seem almost incredible, but its improbability greatly decreased when it was recalled that Jefferson Davis, the now secretary of war, had proposed the Santander-Monterey line in March, 1845, on the occasion of the negotiations for the ratification of the peace of Guadalupe Hidalgo. A treaty (Dec. 30, 1853) was entered into, but it remained far behind these rather gigantic wishes, although the boundary line was changed to the advantage of the United States. The history of the transactions was the secret of the administration and of the senate which had asked for and obtained the correspondence, before it came to a conclusion on the treaty. It was known, however, that the senate had made a great many alterations; among others, it reduced the indemnification to be paid to Mexico from twenty millions to ten millions.<sup>1</sup> It was whispered that the difference was to go to certain land speculators (the Garay and Sboo grants) and, that Gadsden was at first orally instructed, by a secret agent of the president, to come to an understanding with Santa Anna on this subject, but undertook the dubious task only after the order was given to him in writing. Santa Anna approved the alterations made by the senate, and Pierce requested the house of representatives, by a message of the 20th of June, 1854, to grant the stipulated ten millions as the treaty had to be ratified before the 30th of June. The request met with violent opposition. The old question whether

<sup>1</sup> Congr. Globe, 1st Sess., 33d Congr., p. 1538. The message with which Pierce, on the 10th of February 1854, sent the treaty to the senate asked for only fifteen millions. Statesman's Manual, 111, p. 2043.

and to what extent the house of representatives had any power over treaties constitutionally entered into was again exhaustively discussed in the light of the precedents, and considering the reports in circulation in reference to the history of the treaty it was declared necessary that all the documents relating thereto, should be produced, before the sum asked for was granted. In the debate, the opposition which was led by the aged Benton, showed themselves much superior to their opponents, but votes not arguments were decisive. The majority took refuge in the prerogatives claimed by the house on former occasions. They did not endanger the treaty nor compel the official head of the party to lay his cards before his opponents.

The people generally took no special offence at the fact that the ten millions were voted in this way, for the advantages which the Gadsden treaty secured to the United States were scarcely too dearly purchased, at that price. The deeper meaning of the negotiations with Mexico did not lie in their real, but in their possible, and to all appearances, intended results. There is no reason for the assumption that, with Pierce, the desire to give the slavery a new and broad domain was decisive. All that he personally wanted was to make an important acquisition of territory. But, as a matter of course, he was sure that the slavery would claim that territory, and he as well as the slavery, considered it as good as certain that it would actually fall to their share. True, it was all free soil, but according to the interpretation which the compromise of 1850 had received in the Kansas-Nebraska bill, this was no longer decisive, and scarcely of any importance.<sup>1</sup> The south evidently viewed the question in this

<sup>1</sup> Benton said: "This was certainly a large movement both in point of money and of territory, and also large in political consequence; and clearly furnishing a theatre for the doctrine of non-intervention,

way, for otherwise it would naturally have put its veto on the entire project, and it is scarcely necessary to add that Pierce would not have dared to pursue the project without its will. The "great principle" of the Kansas-Nebraska bill was a blank draft handed to the south by the north with its signature, and the first word which the south tried to write in it was not Kansas but northern Mexico. How probable or improbable it considered it, that Mexico would agree to the cession of the coveted territory cannot be said. That it confidently expected to be able to compel the north to honor its draft, if it came to an agreement with Santa Anna, cannot be doubted, since at this time it even harbored the hope of snatching the southern part of American California from the north, and this hope was not completely wanting in a real foundation.<sup>1</sup>

Scarcely had the Gadsden treaty been ratified when the country was thrown into excitement by an incident in Cen-

if there should be any design to convert the newly acquired territory from free soil, that it is, into slave soil that it might be desired to be." *Congr. Globe* 1st Sess., 33d Congr. p. 1233.

<sup>1</sup> The *Mercurian* wrote: "Two years ago a law was passed by the California legislature granting one year to the owners of slaves carried into the territory previous to the adoption of the constitution, to remove them beyond the limits of the state. Last year the provision of this law was extended twelve months longer. We learn by the late California papers that a bill has just passed the assembly by a vote of 33 to 21 continuing the same law in force until 1855. The provisions of this law embrace slaves who have been carried to California since the adoption of the constitution, as well as those who were there previously. The large majority by which it passed, and the opinions advanced during the discussion, indicate a more favorable sentiment in regard to the rights of slaveholders in California than we supposed existed." The *N. Y. Tribune*, June 13, 1854. With reference to those and other doings with a like tendency, the *Richmond Enquirer* subsequently said: "The unseen but active issue between these factions (within the Democratic party in California) is, whether the southern portion of California shall be organized into a separate state, with a

tral America, which the best elements of the Democrats themselves, to a great extent, had not the heart to approve. How far, indeed, a want of skill and the immoderate sensitiveness of the upstart who is only too prone to answer slight provocation with a blow, were the determining causes of the event, cannot be ascertained from the documents. But this much is deducible with certainty from them, that the bombardment of Greytown is not to be ascribed to these causes alone, and that among its other causes was the land hunger of the south.

Controversies of various kinds which had repeatedly found expression in deeds, between Greytown (San Juan del Norte) and the officers of the Accessory Transit Company of Nicaragua in Puntas Arenas had given occasion to this act of violence. The annual message of the president, of the 4th of December, 1854, gave a lengthy history of the events preliminary thereto,<sup>1</sup> but related them in the spirit of an advocate; the client was necessarily without spot and the injustice done him was painted in the darkest colors, because otherwise the action of the self-constituted judge would be simply inexcusable and monstrous. What it pleased the American ambassador to assert was represented without any proof as a demonstrated fact, although it was notorious, that he had acted in a scandalous manner as a party in the quarrels. Greytown whose inhabitants

constitution recognizing and establishing slavery. The recent success promises a satisfactory solution of this problem. And thus may the military violence by which California was devoted to freesoil be avenged, and the south be yet restored to an equal participation in the wealth of that splendid empire. For, if the people of California choose to divide their domain, and to set up another state with southern institutions, of course congress will not presume to interpose any objection. Southern California is peculiarly propitious to negro labor and its inhabitants are very anxious slavery should be introduced among them. Cited by Dr Bow *Congress in Review*, XVII, p. 616.

<sup>1</sup> Statesman's Manual, III., pp. 2065-2068.

certainly did not belong to the elite of the human race was called a nest of pirates and a camp of savages, because it had confiscated some merchandise, burned down a few sheds and insulted the arrogant, hostilely minded ambassador. Not a word of censure was visited on the latter because he had protected a murderer; it was sufficient that, as an eye witness, he denied the murder, although it was committed in open day, in the presence of a great number of people and with a high degree of brutality. The security of person and property on an important commercial highway might, indeed, have made it an imperative necessity to put a tight rein on Greytown, and the United States had itself to undertake this task, for Greytown had cast off all higher authority and claimed to be an independent power. But if because the Transit Company consisted of American citizens, steps were to be taken in their favor, it is plain that all that could be exacted was that their rights, under the charter granted by Nicaragua, should be respected. But the company now strove for a prestige which extended far beyond these limits, and as the ambassador, Berland, had done previously, the president now supported it in a way which showed that not only was respect for the law to be enforced, but a bold blow struck for the interests of the Company and thereby indirectly for the interests of the United States. The man-of-war, Cyane, was despatched to demand satisfaction, and in case satisfaction was refused, to punish Greytown. On the 11th of July, the commander, Hollins, asked besides an apology an exorbitant indemnification for the damage done to the Transit Company.<sup>1</sup> As the demand was not agreed to, he

<sup>1</sup> The N. Y. *Tribune* of the 5th of August writes: "\$10,000 for a yawl load of flour and meal, and \$2000 for two sheds which did not belong to the company exacting the money." The documents are printed in the *Tribune* of the 2d, 3d, and 10th of August.



declared on the 12th of July, that he would begin the bombardment of the town the next day at 9 o'clock in the morning, unless his terms were granted. The commanding officer of the English ship *Bermuda* entered a solemn protest against this, adding the significant remark that, on account of the weakness of his craft, he could do no more for the protection of the English property. Hollins carried out his threat, and in less than two hours the unprotected place was a heap of ruins.

Several powers complained of this act of barbarism, and the public opinion of the United States ranged itself on their side, although the president declared their remonstrances to be wholly untounded. The indignation which the brutal act everywhere excited made him, it is to be presumed, wish that the hope expressed in Hollins's instructions had been fulfilled, and that Greytown had yielded to the demands made on it. But the Transit Company thought otherwise. Colonel Kinney stated that the despatch of the *Cyane* was resolved on in consequence of the description made to the authorities at Washington by J. L. White, of the oppression which the company had had to endure. He subsequently published a letter of this same White dated June 16, in which the wish was very emphatically expressed that Greytown might be soundly punished in order that the Company might establish itself there and might force its officers on the place. And even these were to be only preliminary measures, for he spoke of a transfer of jurisdiction and of something beyond that.<sup>1</sup>

<sup>1</sup> "Captain Hollins leaves here next Monday. You (Fabens) will see from his instructions that much discretion is given to you, and it is to be hoped that it will not be so exercised as to show any mercy to the town or people.

"If the scoundrels are soundly punished, we can take possession and build it up as a business place, put in our own officers, transfer the jurisdiction, and you know the rest.

When it is recalled how frequently and how emphatically the propagandist fraction of the slavery party pointed to Central America; when the simultaneous plots of the filibusters against Mexico and the endeavors of the administration to acquire Mexican territory are kept in view; when the enterprises of William Walker in Mexico, in the next succeeding years are borne in mind; it is scarcely possible to repel the assumption that the aspirations of the Transit Company referred to above, had a special connection with the "peculiar institution." We do not mean hereby to assert the existence of a formal alliance or understanding between the slavery party and the Transit Company. Whether and to what extent such a formal alliance or understanding existed, only the records of the Company, in case they still exist, can decide. But this much appears from the materials published, that the Company did not confine itself to the prosecution of its legitimate commercial interests, but was intent on becoming the ruling power at the key-point to the supremacy over Central America. The Greytown affair proved that in this it calculated on finding in the United States reliable and strong support. If Pierce fulfilled this expectation in a manner which almost led to serious differences with other powers,<sup>1</sup> and which was of

"It is of the last importance that the people of the town should be taught to fear us. Punishment will teach them, after which you must agree with them as to the organization of a new government and the officers of it. Everything now depends on you and Hollins. The latter is all right. He truly understands the outrage, and will not hesitate in enforcing reparation." *The N. Y. Tribune*, Sept. 6, 1855.

<sup>1</sup>Pierce says in his message: "There is ample reason to believe that this conduct of wanton defiance, on their (the inhabitants of Greytown) part, is imputable chiefly to the delusive idea that the American government would be deterred from punishing them, through fear of displeasing a formidable foreign power, which, they presumed to think, looked with complacency upon their aggressive and insulting deportment toward the United States."

at least very doubtful constitutionality,<sup>1</sup> the whole history of his administration compels us to assume that he would have acted much more gently and considerately, if he had not felt perfectly sure of the assent of the slavery. But he could count on its approval, because the Transit Company whether in accordance with its wishes or not worked for the slavery if it realized its further plans. The given circumstances and the spirit of the American people determined that the authors of such projects and more or less consciously the simple colonists whom they drew after them, never acted simply as individuals, but as citizens of the Union. As in Texas and California, so also in Nicaragua, the United States needed only to wait for the right moment to see that which the energy and daring adventure of its children had won, laid in its lap. If the starry banner were planted under the impulse of "manifest destiny" in Nicaragua, it was a matter of indifference who had carried it thither; in the tropics, the slaveholders were of course masters.

It is, therefore, incontestable that the administration, both in New Mexico and in Nicaragua, worked virtually in the interest of the slavery, but it cannot be proved that its policy at these two points was determined by the slavery. If this was not the case, it cannot be ascribed to the administration as a merit. The slavery was satisfied with the fact that the president had tried his luck with Santa Anna, and, in Nicaragua, used the opportunity there offered for the introduction of a policy on which they could, perhaps, afterwards build as they found best, but thought that they should not engage themselves in either place any farther than they had already done. Cuba seemed to them much more desirable and its acquisition

<sup>1</sup> See the resolutions of Wheeler of New York of Dec. 11, 1854. *Congr. Globe*, 3d sess., 33d Congr., pp. 28-29.

much more urgent. With respect to the pearl of the Antilles, they were not content, with smiles of encouragement, to let the president play his own game. Impatiently and to some extent with imperious impetuosity, they pushed him forward, and he obeyed not only without resistance but with a zeal which took too little into consideration that, in politics, discretion is frequently a condition essential to success.

The Cuban question, for a number of years, had never entirely disappeared from the order of the day. It had not been brought up originally by the slave-holding interest, and it was looked upon generally as so important and so much of a home question, that even in those circles which were most opposed to the slavery, very many were of the opinion, that the problem would have to be solved in no distant future, and that it could be solved only by the annexation of the island. The more slavery became the controlling factor in the politics of the Union, and the more England inscribed the combatting of slavery in every clime upon its banners, the more had the question to be viewed from the standpoint of the slaveholding interest. An entirely baseless report that England was pursuing the emancipation of slaves in Cuba sufficed to alarm the slavery. But when England was mentioned in connection with Cuba, the north too immediately took fire. Far from greeting such rumors with joy, it saw only the danger that England might get control of the golden key to the gulf of Mexico, and the well-grounded declaration was repeated more and more emphatically, that the United States never could and never would endure that. And, at last, this English phantom of emancipation, which appeared periodically on the stage, produced, in Cuba itself, more or less excitement which led at one time to revolutionary projects and at another to secret demands

that the United States might take the initiative.<sup>1</sup> It frequently needed only an unfortunate concurrence of accidental circumstances for the United States to become entangled in serious differences with England or Spain, if not to bring about a catastrophe. The danger that this would happen, therefore, became very great when, at the same time, the slavocracy, in the compromise of 1850, won a new and great victory, chose the propagation of slavery more openly and inconsiderately for its programme than ever before, and when Young America gave out "manifest destiny," as its watchword. De Bow's *Commercial Review* declared in 1850,<sup>2</sup> that public opinion was almost unanimously convinced that Cuba was indispensably necessary to the right development and security of the country, and this testimony had great weight, because Louisiana<sup>3</sup> by reason of its sugar industry, was opposed to annexation<sup>4</sup> and even the publisher at the time had no sympathy with the idea. In this state of feeling, a spark might easily produce an explosion, and that this spark would be struck was all the more a probability, because England was now really endeavoring to force Spain to an emancipation of its slaves, at the same time, strongly reminding it, that emancipation would be the best means to resist any attempts of the United States on the island.<sup>5</sup>

<sup>1</sup> See Adams Mem., XI, pp. 351, 353, 354.

<sup>2</sup> IX, p. 113.

<sup>3</sup> The *Review* was published in New Orleans.

<sup>4</sup> The *Commercial Review*, VII, pp. 539-540.

<sup>5</sup> In an instruction of Palmerston, of the year 1851, to the English ambassador in Madrid, we read: "I have to instruct your lordship to say to the Spanish minister, that the slaves form a large portion, and by no means an unimportant one, of the people of Cuba, and that any steps taken to provide for their emancipation would therefore, as far as the black population is concerned, be quite in unison with the recommendation made by her Majesty's government, that

If a more radical representative of slavery propagandism or of Young America had, at the time, possessed the presidential chair, the expeditions of Lopez already referred to might easily have become such a spark. The discreet policy of Fillmore and Webster happily averted the danger, but the execution of Lopez and of a part of his associates, the request made in the beginning of 1852 by France and England and rejected by the United States, that the three powers should reciprocally bind themselves for the present and for all future time, not to take any steps for the possession of the island,<sup>1</sup> and, finally, the publication caused by the house of representatives of the official correspondence, in relation to Cuba, brought up the question of annexation more actively than ever before. The fact that the president declared himself, under the prevailing circumstances, decidedly averse to annexation, opposed no dam to the rising flood.<sup>2</sup>

measures should be adopted for contenting the people of Cuba, with a view to secure the connection between the Spanish crown and the island, and it must be evident that, if the negro population of Cuba were rendered free, that fact would create a most powerful element of resistance to any scheme for annexing Cuba to the United States, where slavery exists." *Congr. Globe*, 1st Sess., 34th Congr., App., p. 870

<sup>1</sup> April 8 1852 The request came to Webster, but was answered by Everett and not until Dec 1, 1852 This answer is still considered in the United States as one of the ablest achievements of American diplomacy

<sup>2</sup> We read in the message of Dec 8, 1852 "I have, however, in common with several of my predecessors, directed the ministers of France and England to be assured that the United States entertain no designs against Cuba; but that, on the contrary, I should regard its incorporation into the Union at the present time as fraught with serious peril.

"Were this island comparatively destitute of inhabitants, or occupied by a kindred race, I should regard it, if voluntarily ceded by Spain, as a most desirable acquisition. But, under existing circumstances, I should look upon its incorporation into our Union as a very



Fillmore's policy was greatly blamed in congress and in the press. In New Orleans, a secret society, under the name of the Order of the Lone Star, was instituted which was said, in the beginning of 1853 to have a membership of 28,000, and whose object was the support of the Cuban malcontents and the furtherance of their revolutionary designs.<sup>1</sup> In the house of representatives, Howard of Texas claimed that there were now ten times as many persons for the acquisition of Cuba as there had been once for the annexation of Texas; the commercial interest of the north, in general, favored the project, and the north would certainly not venture to oppose it, ~~for~~ it had too much at stake in the preservation of the Union to do that.<sup>2</sup> And even if it could not, perhaps, be justified, it could be easily accounted for, that the south expected no great resistance from the north. As early as November, 1852, one of the most influential Whig organs, the *New York Times* expressed its regret, that Fillmore did not seem

hazardous measure. It would bring into the confederacy a population of a different national stock, speaking a different language and not likely to harmonize with the other members. It would probably affect, in a prejudicial manner, the industrial interests of the south, and it might revive those conflicts of opinion between the different sections of the country which lately shook the Union to its centre, and which have been so happily compromised." *Statesman's Man.*, 111, p. 1055

<sup>1</sup> "We understand the purpose of the Lone Star to be, first and foremost, the liberation of Cuba from the despotism of Spain and her allies." *The United States Review*, Jan., 1853, p. 81

"We have been assured that the Order of the Lone Star proposes not to revolutionize but to assist those who are engaged in revolution for a good cause." *Ib.* p. 84

<sup>2</sup> "There is no danger that the north would risk the consequences of rejecting Cuba. They have too much interest in the preservation of the Union, far more than the south. Their whole commercial and manufacturing prosperity rests upon it. We have passed that crisis for the present century." *Congr. Globe*, 2d Sess., 35th Congr., App., p. 81.

disposed to bring his administration to a brilliant close by the acquisition, declaring at the same time that Pierce would unquestionably immediately resume the negotiations, carried on under Polk by Buchanan, for the purchase of the island and that almost the entire people would strongly support him in that endeavor.<sup>1</sup>

As even his opponents urged him on, and promised unsolicited that they would powerfully support him, it can scarcely be wondered at that zealous friends, long before he had entered on his term of office, endeavored to insure him the means which he might be in need of in order to begin the annexation policy immediately. E. C. Marshall of California, proposed on the 6th of January, 1853, a resolution intended to place five or ten million dollars at the disposal of the president for eventualities which might occur in the foreign affairs of the Union, until the meeting of the next congress. The speech had reference especially to Cuba, and Marshall expressly declared that the resolution was meant to be a vote of

<sup>1</sup> "We hazard little in predicting that, unless war or civil revolution in Cuba shall intervene to settle the question in another shape, the very first act of the administration of General Pierce will be to renew the negotiations upon this subject, and to press them forward with all possible vigor to a successful termination. And in this endeavor the president will have the cordial, earnest, and almost unanimous support of the American people. For our own part, we should be glad to see the present administration signalize its close of power by an act of such transcendental importance to the United States and so essential to the preservation of the public peace. In our opinion, nothing but an amicable arrangement for the transfer of Cuba by purchase to the United States—an arrangement at once honorable and beneficial to both parties, and conducive in the highest degree to the preservation of peace, not only with Spain but with all the other powers of Europe, can prevent the accomplishment of the same end by a bloody war in which both countries will suffer largely, but which will prove utterly useless to the power of Spain." Printed in the *New York Tribune*, Nov. 25, 1852.



confidence in Pierce and to give expression to the wish to see a change made in the foreign policy.<sup>1</sup>

The nomination of Pierre Soulé—a naturalized Frenchman who was one of the most ardent champions of slavery, and who played a leading political part in Louisiana—as minister to Madrid, seemed to remove the last doubts which were still entertained here and there whether Pierce would fulfill the expectations placed in him. The *New York Tribune* (April 8) stated that unlimited power to enter into negotiations with respect to the purchase of the island had been granted him. But its information was not correct.<sup>2</sup> In the White House, affairs were treated more soberly and considerably than by politicians and journalists on whose tongues and pens the responsibility of action placed no check. The instructions which Marcy gave him on the 24th of July, 1853, had, as to the main question, a rather uncertain character. The assurance that the United States would do nothing to disturb the present connection of Cuba with Spain was joined with the condition, that its future safety would not be imperilled by an alteration of the character of that connection. What alterations the secretary of state had in view was intimated by the remarks that the United States would very much dislike to see Spain make use of the assistance of other powers to assert its supremacy over the island, and by the instructions to Soulé to inform himself how far England and France urged Spain to make changes in respect to slavery. An emphatic repulse of

<sup>1</sup> "The resolution which I propose to introduce will announce to the incoming administration our perfect confidence in it. It is offered not as a war measure, but simply implies that a change of policy is desired and that the executive will have the support, the earnest and effectual support of congress." *Congr. Globe*, 24 Dec., 32d Congr. App p. 71.

<sup>2</sup> Pike, *First Blows of the Civil War*, p. 176.

the suspicion that the severance of the island was favored by the United States, was offset by the claim that, within a short time, Cuba would, in one way or another, cease to be a Spanish possession and that the separation would in all probability be a forcible one. This was the foundation for the friendly advice voluntarily to sever the bonds which united it to the mother country. But the declaration that the United States would be ready to promote such a settlement of the question by something more substantial than its good will must have been looked upon by Spain, without its exposing itself to the reproach of a morbid distrust, as a very noticeable interrogation mark, after the promise of absolute passivity before made in respect to the revolutionary desires of the Cubans. All this Soulé was to intimate to Spain only very carefully and in such a manner as not to offend its feelings. The power to enter into negotiations for the sale of the island was expressly withheld from him, but only for the present and because such negotiations had no prospect of success.<sup>1</sup>

The administration, therefore, by no means discouraged the wishes of the annexationists. It only wanted to operate with great caution, because it rightly measured the enormous difficulties which stood in the way of their realization. But these difficulties were in part of such a nature, that the end could never be approached one step nearer by this cautious, tentative process. Of this people soon became convinced, and one of those episodes which the excited feeling of the Spanish authorities in Cuba never allowed to be wanting, was the wished for incentive

<sup>1</sup> "It is scarcely expected that you will find Spain, should you attempt to ascertain her views upon the subject, at all inclined to enter into such a negotiation. In the present aspect of the case the president does not deem it proper to authorize you to make any proposition for the purchase of that island."

to the pursuit of the matter with greater energy and despatch.

On the 10th of March, 1854, the house of representatives adopted a resolution introduced by Phillips of Alabama, which asked the president for information relative to the violence done to the American ship *Black Warrior*, in Havana, and concerning other indignities offered the United States of which the Spanish authorities in Cuba had been guilty.<sup>1</sup> The papers of the *Black Warrior* recited that it sailed, under ballast via Havana from Mobile to New York. The custom house officials, however, found some hundreds of bales of cotton on board, and therefore declared the cargo confiscate. The remonstrances of the captain were fruitless, and he betook himself with the American flag on board the United States ship, *Fulton*, and left his own ship in the hands of the Spanish authorities. The latter had the letter of the law in their favor, and hence, at first blush, the complaint of the captain and still more the passion with which the house of representatives and the press took up the matter, seemed entirely unwarranted. But it was an old custom, generally not objected to, for ships which touched Havana without wishing to unload there, to carry such untrue bills of lading, provided that for a part of the ballast, heavy merchandise in no large quantities, was substituted. Moreover, it had hitherto been permitted to rectify incorrect declarations within twelve hours. Captain Bullock had wanted to do this before the time fixed had elapsed, but was given to understand that, in accordance with a new provision which, it was said, had not yet been made public, this favor should no longer be shown to any one. There was, therefore, no ground for the assumption that Captain Bullock had not acted bona fide,

<sup>1</sup> Congr. Globe, 1st Sess., 33d Congr., p. 601.

and the Spanish authorities had, to say the least, shown themselves far from liberal or accommodating. But as this was by no means the first instance of the kind, and the claims of the United States, as a rule, had no result but to be sent from Madrid to Havana and from Havana to Madrid,<sup>1</sup> the belief was warranted that, at the bottom of the whole procedure against the Black Warrior, lay the wish, from a safe place to make a right sensitive petty thrust at a dreaded and hated neighbor. But when the affair was swollen to the dimensions of a great political question, which, under certain circumstances, might lead to war, the only explanation of the fact was to be found in this, that an occasion was sought to be able to exercise so great a pressure upon Spain that it would lend a more willing ear to the wishes of the United States with respect to Cuba, in order to avert greater evils.

On the 15th of March, Pierce answered the resolution of the house of representatives with a message<sup>2</sup> which, in accordance with the concluding sentence of the resolution, treated not only of the Black Warrior affair, but of the relations with Spain, in general. The president stated in a sharp and even exaggerated manner<sup>3</sup> that the Span-

<sup>1</sup> One of the best founded complaints of the United States was that the powers of the Cuban authorities sufficed to bring about the most threatening differences, but that when satisfaction was demanded of them they could always intrench themselves behind their want of power. The captain general did not have the right bold official, but only so to speak officious diplomatic intercourse.

<sup>2</sup> *State-man's Man*, III, pp. 2044, 2045.

<sup>3</sup> He speaks of "insults to the national flag." Giddings pertinently answered by asking: "Gentlemen of the house of representatives, has this nation pocketed insults? Where—where are the representatives of this nation, where is the former executive who has pocketed an insult from Spain—that inert and decayed government? When and where, sir, has the American flag been insulted by Spain? On what occasion? What officer of this government has demeaned himself as so unworthy the name of an American citizen?—and when did

ish authorities in Cuba, in the years last past, had given the United States frequent ground of complaint, and promised as soon as possible, to lay the correspondence relating to the matter, before congress. From the fact that satisfaction had thus far been sought in vain in Madrid, he inferred that no better success could be expected in this case. But considering the geographical situation of Cuba and its relations to the commercial and other interests of the Union, with such a policy menacing alike to the honor and security of the United States, peace could not long be preserved. Hereupon followed the announcement that if the measures taken for the peaceable settlement of the difficulties did not lead to the desired end, he would not hesitate to use the means which congress would grant him to obtain satisfaction for the injustice already suffered and to protect the honor of the country. The message then closed by calling for the adoption of the provisional measures which the situation demanded.

Even drops fill up a glass so that at last it overflows, but the administration, congress and the people were very far removed from being so overpowered by passion that they could in honest blindness look upon a case in which all Spain needed was to refer to its laws, as sufficient ground for a breach between the two countries. It was evident that a pretext was sought for, and the real reason of this provoking and threatening language was those "other interests" and the alleged menaced security of the country, that is, as Giddings immediately said, with disagreeable plainness, the slaveholding interest and the fear that Spain entertained ideas of emancipation. The official

this government sit silent under the insult from the feminine majesty of Spain that weak and powerless kingdom" Congt Globe, 1st sess. 32d Congr., p 647

confirmation of this statement soon came. A new instruction of April 3d granted Soulé power to enter into negotiations looking towards the independence of Cuba as well as towards the purchase of the island, and as a reason therefor it was stated that Spain was alleged to be considering the introduction of a new system of labor, which as people expressed themselves in the United States, would lead to the Africanization of the island.<sup>1</sup>

"The unsettled condition of political affairs in Spain, and the troubles which may arise in the island of Cuba, from the experiment now making to introduce a new system for supplying the demand for agricultural labor, are here regarded as circumstances which may open way to the accomplishment of the object so much desired by the United States.

"In view of the contingencies which may arise, the president has deemed it proper that you should be furnished with full power to enter into a convention or treaty for the purchase of Cuba . . . The change of policy in Cuba particularly in regard to supplying the demand for agricultural labor, has increased discontent and created alarm among the people of that island, and made them more averse to the continuance of Spanish rule, and more willing to come under the protection of the United States . . . Though the pride of Spain might revolt at the proposition to sell the island of Cuba to a foreign power, it has been suggested that she might be induced to consent to its independence, and that the United States might essentially contribute to such a result.

"I have in the foregoing remarks alluded to a change in the system of supplying the demand for labor in the island of Cuba. If any such change has been made or is in contemplation, it is not only known to, but must have been approved by, her Catholic Majesty's government at Madrid.

"The particular features of the system are not here understood. What information we have on the subject, is derived from the practical development of it. You are directed to avail yourself of your position to ascertain as far as practicable, the details of this new system, and communicate them to your government. You were furnished in your instructions with the president's views of the apprentice system. If it should be gone into extensively, and carried out in good faith, it will inevitably Africanize the island. If such be really intended by Spain, she ought to be willing to avow it. The sooner it is known here to be her settled policy, the better for all concerned." Exec.



On the highway of "finality" and the establishment of eternal peace, by the great principles of non-intervention and squatter sovereignty, a point had now been reached at which a president and secretary of state from the free states wished to purchase the independence or the possession of Cuba, confessedly in the interests of the slavery. This was certainly a great way from the introductory sentences of the Declaration of Independence, and yet the radicals of the southern states were far from being satisfied.

The message of the 15th of March was referred to the committee on foreign affairs. Two members of it, Clingman of North Carolina, and Judge Perkins of Louisiana, concerted together to move a resolution placing ten millions of dollars at the disposal of the president, empowering him to employ the army and navy and authorizing a levy of 50,000 volunteers. Clingman relates that he desired a war, because he saw in it the only means, to prevent the dissolution of the Union or a civil war. Contrary to his advice, Perkins communicated the design to the administration before the proposal was made in committee. Not only did Pierce and Marcy emphatically reject the idea, but even Jefferson Davis would not listen to such a project, and on their urgent representations the two hotspurs let the matter drop.<sup>1</sup>

In the senate, Sidellet endeavored to secure the separation of Cuba from Spain, in another manner less objectionable as to form, but just as safe, which he of course

Doc. 2d Sess., 38th Congr., Vol. X, No. 93, pp. 80-81, 82.—In what paragraph of the constitution the leaders of the party who still claimed to hold in everything to the principle of strict construction discovered the power to purchase the independence of a foreign state, it is difficult to see.

<sup>1</sup> Selections from the speeches and writings of the Hon. Th. L. Clingman, pp. 375, 376.

considered only as a preliminary step towards annexation. On the 1st of May, he made a motion to charge the committee on foreign affairs to take into consideration, whether it was expedient to authorize the president to suspend the neutrality laws for twelve months, when congress was not in session.<sup>1</sup> In defending the motion, he began with the frank avowal that, spite of the harmless form in which it appeared, it was not to be looked upon as a mere formality; in his opinion it should constitute the basis of prompt and thorough legislative measures. The reasons assigned for it were that Spain, urged on by England and with the assent of France, was bent upon the Africanization of Cuba,<sup>2</sup> and this assertion was supported especially by a report of the former ambassador in Madrid, Barrenger, of the 14th of December, 1852,<sup>3</sup> and a decree of captain-general de la Pezuela, of the 18th of January, 1854, in which the authorities of the island were required to send in opinions as to whether the importation of "African apprentices" was to be recommended.<sup>4</sup> The object of Africanization by the importation of half slaves and at last by the emancipation of slaves, was to create an impassable gulf between Cuba and the

<sup>1</sup> Congr. Globe, 1st Sess., 33d Congr., p. 1021.

<sup>2</sup> "I use the word (to Africanize Cuba), not for the reason that it has become fashionable, but because it plainly conveys to my mind at least without periphrasis, the complex ideas of emancipation, confiscation, pillage, murder, devastation, and barbarism." 1 c

<sup>3</sup> "It is said that as a last resort to its (Cuba) falling into the power of the United States, or becoming a free independent state by revolution secret orders have been issued to emancipate the slaves, and place arms in their hands for the maintenance of their own rule, and authority in the island, and that the true reason of the recent increase of the slave trade in that island, is violation of public treaties. It is reported as a motto in the public press of Spain, that Cuba must always be either Spanish or African." 1b, p. 1022

<sup>4</sup> What word was used in the Spanish original I am not able to say



United States. To prevent this, all that was needed was to give the president the authority asked for, for as soon as the fetters were struck from the arms of the American people, the Cuban patriots would be strong enough to break the Spanish yoke.<sup>1</sup>

On the 16th of May, Mallory of Florida, moved a resolution in the senate which contemplated no definite action of any kind, but only declared that the Africanization of Cuba which had been begun, and which would lead to a repetition of the horrors of San Domingo, was irreconcilable with vital interests of the United States.<sup>2</sup>

Marcy, Shidell and Mallory agreed that the Africanization of Cuba was going on, and could not be suffered by the United States. What they said about the manner in which the monstrous project was to be executed, on the other hand, was very vague and scarcely consistent; the secretary of state even stated that the administration had no clear idea of the "system" by which they were so much disquieted. Spite of the emphasis with which these

<sup>1</sup> "Shall we remain passive spectators until the fatal blow has been struck or shall we at once put ourselves in an attitude to repel and avert it? I counsel neither negotiation nor remonstrance on this subject; we have the remedy in our hands, it is that indicated in the resolution which I have submitted. Arm the president with the simple power to unfetter the limbs of our people, and the government will have no occasion to put forth the energies of the nation; individual enterprise and liberality will at once furnish the men and the material that will enable the native population of Cuba to shake off the yoke of their trans-Atlantic tyrants."

"I desire no movement on the part of our citizens, until the Cubans shall have put their own shoulders to the wheel. One thing is certain, that in spite of all your statutes, your collectors, your marshals, your army and navy, if the revolutionary standard be once hoisted in Cuba, and maintained for a few short weeks, no administration can prevent our citizens rushing to the rescue in such numbers as will secure its triumph—a Democratic president would not desire to do it." (*Congr. Globe*, 1st Sess., 33d Congr., pp. 1023, 1024.)

<sup>2</sup> *Ib.*, p. 1104.

fears were expressed, skeptical natures might therefore, doubt whether the reasoning of these gentlemen was based on facts or on imagination, if not on a fiction. So long as such doubts were given utterance to only in the opposing camp, they did not demand any special attention; they could be dismissed with a few phrases on the fanatical spirit of party which had no consideration for anything so long as it could deal a blow at the slaveholding interest. But as one of the most distinguished and best informed statesmen of the south claimed with great decision, that Spain did not contemplate the Africanization of Cuba, it was certain that the north could not be alarmed by mere assertions to such a degree as to allow itself to be inconsiderately drawn into a policy of adventure which would have incalculable consequences. Clay asserted that the decree of the captain-general which he had read in the *Diario de la Marina* of the 12th of May, did not speak of Africans at all, but only of Spaniards, Chinese, Coolies and Indians from Yucatan.<sup>1</sup> Spain understood its interests too well and had them too much at heart for it, simply to commit a tort against the United States, to Africanize Cuba by the emancipation of the slaves. The pleasure would be purchased too dearly, since it could get a hundred million for the island. Considering the financial condition of the country, that was a sum which could not be sacrificed without compensation, in order to annoy a disagreeable neighbor. But the revenues which the state drew from the island were not even the most material interest of

<sup>1</sup> The very date compels us to assume that Slidell and Clayton spoke of very different things, the former of an order in which information was asked and the latter of a subsequent decree. As I have not been able to procure the Cuban journals, I am unfortunately not in a condition to make this point clear. It is surprising that Clayton's attention was not called by Slidell to the mistake.

Spain in its possession. It held to it much more tenaciously because Cuba was the wheat market of the Spanish landowners which they insured to themselves by imposing a burthen of ten dollars per barrel on foreign flour.<sup>1</sup> When Benjamin of Louisiana in opposition to these weighty arguments repeated the old assertion and intensified it by saying that there was question not only of a project but that that project was already in process of execution, Clayton granted that Spain would, unquestionably, in one case, break the chains of slavery: if it became convinced that it could not hold the island against American filibusters.<sup>2</sup>

Mallory agreed in the opinion that Cuba could not be purchased, but he inferred therefrom that a policy should be entered upon without delay which by some other road would lead to the acquisition of Cuba.<sup>3</sup> If this view was the prevailing one in the circle of the annexationists, Clayton's unassailable argument amounted to this, that the danger of Africanization was not the cause but the consequence of the craving for annexation. Considering the recklessness with which this craving manifested itself every day, it required an unusual degree of audacity to assert, with a serious countenance, that the United States stood entirely on the defensive. The *Richmond Enquirer* immediately demanded that it should employ the freedom of action it had acquired by the settlement of the Kansas question, to break entirely with Spain. It frankly said that the Black Warrior affair was an opportunity which should be turned to account, announced that the president

<sup>1</sup> Congr. Globe, 1st Sess., 33rd Congr., p. 1259.

<sup>2</sup> *Ib.*, pp. 1298, 1299.

<sup>3</sup> *Ib.*, p. 1260. He says: "So long as Spain has a stable government, a proposition to sell Cuba would hurl any ministry, aye, sir, any dynasty, from power."

stood firmly by the south, and strongly urged congress to do its duty: it might easily happen that what was now let slip could never again be retrieved, and hence the south would suffer no lukewarmness and still less opposition.<sup>1</sup> With the utmost open-heartedness, the *Enquirer* stated further, that the slavocracy made these demands, and must make them, because its existence depended upon the strengthening and extension of its power. In its compromising frankness, it went so far as to confess that even in the event of the disruption of the Union, the annexation of Cuba was an absolute necessity.<sup>2</sup>

<sup>1</sup> "Now that congress is delivered of the Nebraska bill, the country will expect prompt action in regard to our difficulties with Spain. The nature of these difficulties is such as to allow neither of delay nor timidity in their treatment . . . Of the temper and determination of the executive there is no doubt. The administration has already indicated its policy in the president's energetic message respecting the Black Warrior affair. The south may repose implicit confidence in Mr. Pierce, he is with us. Why is congress so backward and timid? Are grave senators so trammelled by traditional notions of conservatism that they are incapable of grasping the full significance of the crisis? While they doze in their seats and dream of obsolete conventionalities, the irreparable wrong may be consummated, and Cuba be lost forever.

"The people of the south are not so blind or so apathetic. They see the opportunity, and they expect their representatives to seize and turn it into account. They will tolerate no lukewarmness, much less opposition, in carrying out the scheme for the annexation of Cuba." Printed in the *N. Y. Tribune* of May 29, 1854.

<sup>2</sup> "Our view of the policy of this measure, as of every other, is determined by the paramount and controlling consideration of southern interests. It is because we consider the acquisition of Cuba as essential to the stability of the system of slavery, and to the just ascendancy of the south, that we consent to forego our habitual repugnance to political change, and to advocate a measure of such vast, and, in some respects, uncertain consequences. The only possible way in which the south can indemnify itself for its concessions to the anti-slavery fanaticism, is by the acquisition of slave territory. We must reinforce the powers of slavery as an element of political control, and this can only be done by the annexation of Cuba. In no

The contemptuous disdain with which the slavery looked upon its northern following found its classical expression in this manifesto of the *Richmond Enquirer*. In the eyes of the Fire-Eaters, there seemed no possibility that the northern followers of the slavery could, under any circumstances, refuse obedience, for otherwise they would not have ventured to argue in favor of their demands, in this way, with the admission that all was over with slavery, unless their will was done. The north was dryly told that it must debase itself still more and forge new chains for its arms, since otherwise the yoke under which it had hitherto been held would break.

When men thought that they could talk in this way, with impunity, it could not be a matter of surprise that they showed as little regard, in their actions, for their own government as for Spain. The pound of flesh out of the body of Spain must be had. If Spain had submitted to the bitter necessity, there would have been no petty higgling over the smart money, since it would have been furnished chiefly by the north. If the president were to show himself worthy of the good testimony just borne him, he, too, would of course have had to assist under these

other direction is there a chance for the aggrandizement of slavery. The intrigues of Great Britain for the abolition of slavery in that island are pursued with a zeal and an energy which cannot fail of success, unless the United States interfere to prevent the consummation. The only effectual mode by which this may be done, is by the transfer of the island to the dominion of the states. If we contemplate the possible alternative of the disruption of the Union by the mad spirit of abolition, the necessity for the acquisition of Cuba as a support to the south becomes even more manifest and urgent. With Cuba in the possession of an hostile interest, southern slavery would be exposed to an assault which it could neither resist nor endure. With Cuba as a member of a great southern confederacy, slavery might bid defiance to its enemies.' *The North and the South*, pp. 18, 19.

circumstances. The slavocracy had sent him to the White House to look after its affairs, and hence it was his part still less than that of congress to inquire what were the caprices of international law and international honor, when the slavocracy declared that it was confronted with a question of existence. Could the frowns of European "despots" now produce a greater impression on him than the denunciations of his own countrymen and constituents in the Kansas question?

Hitherto only adventurers by profession and young, nameless people had joined the filibustering expeditions of the Cuban patriots, while the expedition the organization of which was now in process, was headed by one of the most noted politicians of the country. Quitman was the soul of the undertaking which was agitated with as much audacity as if it were sure of the good wishes if not of the secret assistance of the government. As it was desired to raise a force which should not run the danger of coming to its end on the place of execution, like Lopez and his associates, after a few skirmishes, it was impossible to operate with great secrecy. But so bold an advertisement of the project could be explained only in one of two ways: either people were convinced that the president would approve the means for the sake of the end, or it was desired to stir the masses of the southern population to such an extent that the president would be deterred from any vigorous interference. The latter assumption is all the more probable, as it was known that there were two different currents in the cabinet and that it, therefore, needed only slight pressure, to give the ascendancy to the one which was free from narrow-minded over-nicety as to the means. However, before the administration had by any official act taken a position on the matter, it was rumored that Pierce had decided in favor of

Marcy who would have nothing to do with the filibusters.<sup>1</sup>

A message of the president of the 31st of May, confirmed this report. It expressly designated Cuba as the object point of the expedition which was being fitted out by citizens of the United States and others, and cautioned all against such illegal acts, in the usual form. Pierce's attitude hitherto towards the slavery, afforded, indeed, no guaranty, that this warning was not to be any more than a piece of paper which he could not help throwing on the winds to keep up appearances. But there was one sentence in the message which should have calmed even those who had least confidence in him. Among other reasons assigned by the president for his interference was that the control of peace and war should not be taken away from the legal authorities.<sup>2</sup> Whether he wished honestly and energetically to fulfil his legal and international obligations for their own sake, was, therefore, entirely indifferent, so far as the practical question was concerned, since it was evident that he was unwilling to leave the initiative which belonged to himself and congress to the filibusters. The last doubts on this point—if

<sup>1</sup> In a private letter of the 27th of May, 1854, from Jackson, Mississippi, we read "I learn that Genl. Cushing and Davis favor the plan, that the president has not given such an answer as was expected by the friends of the cause. Marcy, I am informed, is down upon the whole plan. No doubt he is looking for favors from the north in the next race. . . . The plan meets with favor among the cotton planters, but they have not come forward with the dimes to the amount that was anticipated. I learn that the organization is not confined to the south, but that parties in New York have subscribed to a large amount." *The N. Y. Tribune* June 10 1854.

<sup>2</sup> And, whereas, it is the duty of the constituted authority of the United States to hold and maintain the control of the great question of peace or war, and not to suffer the same to be lawlessly complicated under any pretence whatever." *Statesman's Man*, III., p. 2653.



doubts were still anywhere entertained—disappeared when Quitman was arrested on the 31st of July and obliged to give bail that he would observe the neutrality laws of the United States.

But could a conclusion as to the president's own views in reference to Cuba be drawn from his course towards the filibusters? At the end of May, the *New York Journal of Commerce* again declared that the reports that the slavery and Pierce were bent on the acquisition of the island, were silly and miserable campaign lies. But as early as June 2, the *Journal* had to allow itself to be very materially corrected by its own Washington correspondent. The latter, too, said that the south had no desire for the island for its own sake and sought for its possession only through fear of its Africanization. But spite of this he asserted that Pierce and the majority of his cabinet were resolved to obtain the island by purchase or force, although Marcy entertained the conservative view and looked upon the terrors of Africanization as a false alarm. But the filibusters had no kind reception to expect from the president, for he desired to solve the great problem himself and contemplated asking extensive powers from congress in that behalf.<sup>1</sup>

<sup>1</sup> "It is inferred, from remarks which he has made on the subject to members of congress, that, in his forthcoming message, he will disclaim and rebuke all attempts at filibusterism, legalized or not, and ask congress to give him ample powers and means to meet any emergency that may arise in the course of the Cuba controversy. This being granted, the sooner congress adjourns and leave him untrammelled, the better—though it will require some preparation to make an assault upon or to blockade Cuba—and, I repeat, it will not be attempted during the dog-days.

"It is generally supposed that the senate, at least, will act very cautiously and independently on this subject.

"The south is not generally in favor of acquiring and annexing Cuba. They do not want it, except as a means of self-preservation.



Campbell of Ohio, subsequently asserted that the increase of the fleet by six steam frigates and the appropriation of ten million dollars which had been wished for about the close of the first session of the 33d congress, by the administration, had stood in direct connection with the Cuban projects of the president.<sup>1</sup> This was certainly not improbable, as the president, when questioned by the senate whether the "provisional measures" recommended in the message of the 15th of March had not become superfluous by circumstances which had occurred in the meantime, answered with a very decided no.<sup>2</sup> From this it could be inferred with certainty that the plans of annexation had not been given up, but as to how they were to be further carried out only vague and unreliable rumors at first made their way among the public.

Congress had adjourned *sine die*, on the 7th of August, without having adopted any resolutions which could be interpreted to mean that it anticipated or wished a forcible solution of the question. Such a solution was, unquestionably, very far from the president's mind. If Spain could be moved to sell, he would have been much better pleased than if he would have, with the aid of pro-

They fear the conversion of Cuba into a free black state, and its dangerous influence upon their interests. They would seize the island in preference to its Africanization. The administration can have no excuse for hostile movements against Cuba, unless they can make out the truth of the allegation that the policy of emancipation has been adopted and is about to be carried into execution. But of this there is no evidence and as Mr. Clayton asserted Mr. Marcy does not believe a word of it himself. It is believed that Mr. Marcy's course in the cabinet in reference to these matters, has been discreet and conservative, but the majority of the cabinet including the president have been, and still are, resolved upon bringing the Cuba question to an issue and acquiring the island by purchase or force." Printed in the *Independent*, June 8, 1854.

<sup>1</sup> Congr. Globe, 2d Sess., 33d Congr., p. 11.

<sup>2</sup> Statesman's Manual, 111., pp. 2056, 2057.

visional measures, to reach his end by another road. But the realization of the project for purchase was now pursued in a way which entirely justified the testimony brought forward by the *Richmond Enquirer*, to the devoted zeal of the president for the interests of the slavery, even if he disturbed the circles of the filibusters.

A dispatch of Marcy, of the 16th of August, instructed Soule to meet Buchanan and Mason at some place, Paris perhaps, in order to come to an understanding as to a plan of operations. The reason assigned for this instruction was that in London and Paris, much might be done either to promote the great object in view, directly, or at least, to remove opposing obstacles.<sup>1</sup> On the 15th of October, Soule sent information that he and his two colleagues had met at Ostend on the 9th of that month. After a consultation which lasted three days, the conference adjourned to meet at Aix-la-Chapelle; it hoped to be able to send the result of its deliberations, by the next steamer, to Washington, and stated with satisfaction, that the members of the conference were in all things of one opinion.<sup>2</sup> The character of this document which is usually called the Ostend Manifesto, but which is dated Aix-la-Chapelle, October 18, 1854, lent great interest to this declaration, and as Buchanan had for a long time been among the most prominent Democratic presidential candidates, it might perhaps, sometime, become of great practical importance.

This full agreement of the three ambassadors must have been exceedingly gratifying, for, as a preamble to the

<sup>1</sup> Exec. Doc., 2d Sess., 33d Congr., Vol. X, No. 93, p. 124.

<sup>2</sup> "It is of infinite satisfaction to me, as I am sure it will be to you, that the most cordial harmony has marked the progress of our labors, and that there will not be a single opinion expressed by the conference, but what will convey the unanimous sentiment of the conferences." *Ib.*, p. 125.

lengthy arguments of the manifesto, the principle was laid down, that in this important question, the course of the United States should be characterized by a candor and a loyalty which would insure them the assent of the world. If congress and the president followed the example of the ambassadors, this candor would have left nothing to be desired. The first part of the report developed why the United States must have Cuba, why the sale of the island was in the interest of Spain, and declared that the failure of the project of purchasing it would have to be ascribed to the malign influence of foreign powers. If strong assertions were good arguments, the ambassadors would have produced a conclusive proof of this threefold thesis. Cuba, they declared, was just as necessary to the United States as any of its present members, and, for special reasons, it was dangerous to refrain any longer from making the actual state of things conform to the natural. These special reasons were the tyranny of the governing class and the labor system recently introduced which threatened to provoke a revolt at every moment. Considering the momentous consequences which this might have for the American people, Cuba had become a constant danger to the United States. The slaveholders and the American people were therefore represented as simply identical, and accordingly, it was further represented as self-evident that not only citizens of the United States, but also the federal government would meddle in the struggle in favor of the Cubans, in case the latter should revolt against Spain. This was proof to a demonstration that the sale was just as much to the interest of Spain as the purchase was to the interest of the United States.

The second part of the manifesto discussed the question, what the United States would have to do, if Spain, deaf to the voice of its own interest and impelled by stubborn

pride and a false feeling of honor, should refuse to sell. The considerations on this subject were preceded by the laying down of the fundamental principle, that, for states as well as for individuals, self preservation is the first law of nature. From this, in a negative way, it was inferred that Cuba might and must be acquired, even without the assent of Spain, if the great law of self-preservation demanded it. But even in this case, the United States had to preserve its self-respect and the consciousness of its integrity. If this were done, it did not need to notice the reproaches of the world to which it had been so often unjustly exposed. The ambassadors, therefore, evidently expected that the policy they eventually advocated would not be upright and honest in the eyes of the world, and this was in direct contradiction with their former claim that the assent of the whole world might be confidently calculated upon.

Which of these two opposed suppositions would be realized, depended unquestionably, in great part, on whether the United States, in the eyes of the rest of the world, needed Cuba for its self-preservation. If this question was answered in the affirmative, the United States was comparable to the brazen colossus of the Biblical parable which might be overthrown by a small stone rolling against its feet of clay. The possession of Cuba might be very desirable, that is, in the highest degree advantageous, to the United States, but if it was, in the real sense of the word necessary to the United States, as the ambassadors claimed, then there must have been in that gigantic political body, a spot on which the prick of a pin operated like the blow of a club. A glance at the map sufficed to demonstrate this literally *ad oculos* to the simplest mind, by the relative magnitude of Cuba and the United States.

The ambassadors avoided answering directly whether

the law of self-preservation imperatively demanded the seizure of Cuba, but what their opinion was appeared from their further allegations as clearly as if they had clothed their answer in the most emphatic expressions, and just as clearly did they give it to be understood where the Goliath might at any moment be struck to death by the David in the case. When Spain had rejected the offer to purchase, it would be time to ask whether Cuba, so long as it remained in the possession of Spain, seriously imperilled the internal peace of the United States and the existence of the Union. If this question had to be answered in the affirmative, the republic would according to all laws, human and divine, be justified in wresting the island from Spain, provided it had the power to do so, just as an individual might demolish his neighbor's house, if there were no other means to preserve his own from the flames. Whether the momentary condition of things in Cuba would justify such a course should not be discussed. But the people would violate their duty, show themselves unworthy of their brave forefathers and be guilty of treason to their posterity if they allowed Cuba to be Africanized, and to become a second San Domingo and allowed the flames to invade the r own shores, menacing or really destroying the proud structure of the Union. They, the ambassadors, feared that events were rapidly tending towards such a catastrophe.

The ideas of honesty and self respect must have acquired a strange complexion indeed, in the consciousness of the American people who began their independent political existence with the proclamation of the rights of man, when they considered themselves justified by all laws, human and divine, to wrest from another state property that belonged to it, because the dreaded emancipation of the slaves there might cause the American slaveholders who

did not constitute one-fiftieth of the white population to rend the Union. But as "Africanized" Cuba would no more have imperilled the slave states if they remained in the Union than if they left it, it is evident that the slaveholders could find in this question a reason for the disruption of the Union only if it was their will—or in the opinion of the ambassadors, if they were compelled—to place the free states before the alternative: either you shall help us win Cuba or we shall secede and endeavor, as an independent state, to put ourselves in possession of Cuba. It was authoritatively admitted without reserve, by the south, that, in the whole Cuban matter, there was question only of the acquisition of a few more slave states,<sup>1</sup> and the reasoning of the three ambassadors, therefore, amounted to this, that all was over with the Union, unless the north granted the slavocracy the strengthening and extension of its power which it wanted in Cuba. This justified the demand that the government of the United States would itself undertake the role of the filibusters, if Spain did not agree to their wishes.

A dispatch of Soulé's, of the 20th of October, contains the documentary proof, that this was the unexpressed conclusive argument of the reasoning of the three originators of the manifesto or, at least, of Soulé personally. Soulé, indeed, asserted that the negotiations did not seem to be without any prospect of success, but this he only incidentally remarked. His real object was to influence the resolves of the government as to what should be done, in case this hope was not realized. In answering this question, he tacitly started out with the assumption that the

<sup>1</sup> The *Charleston Mercury* wrote: " . . . the Ostend manifesto, a document whose sole object was to acquire Cuba, out of which two or three slave states could have been formed." *Congr Globe*, 1st Sess., 34th Congr., App., p. 1183.



preliminary question, whether Cuba should be taken by force if it could not be obtained in a peaceable manner, was looked upon by Marcy, just as little as by himself as still needing any discussion. He simply sought to convince the secretary of state that if the end could be reached only by a war, the blow should now be struck, as the arms of the western powers were bound by the oriental war. In establishing this thesis further, he remarked that for all the powers participating in it great internal disturbances must be the fruit of the Crimean war.<sup>1</sup> This vague intimation would, on account of its infinite ambiguity, have remained entirely unintelligible, if the charge made against him that he had concocted a plot with the European revolutionists by profession, in accordance with which, the United States was to be involved in a war with the western powers which would secure Cuba to it, and at the same time clear

<sup>1</sup> "The question of the acquisition of Cuba by us is gaining ground as it grows to be more seriously agitated and considered. Now is the moment for us to be done with it; for if we delay its solution, we will certainly repent that we let escape the fairest opportunity we could ever be furnished with of bringing it to a decisive test.

"Present indications would seem to encourage the hope that we may come to that solution peaceably.

"But if it were otherwise—if it is to bring upon us the calamity of a war—let it be now while the great powers of this continent are engaged in that stupendous struggle, which cannot but engage all their strength, and tax all their energies as long as it lasts, and may, before it ends, convulse them all.

"Neither England nor France would be likely to interfere with us.

"England could not bear to be suddenly shut out of our market, and see her manufactures paralyzed, even by a temporary suspension of her intercourse with us.

"And France with the heavy task now on her hands, and when she so eagerly aspires to take her seat as the acknowledged chief of the European family would have no inducement to assume the burden of another war, nor any motive to repine at seeing that we took in our keeping the destinies of the New World, as she will have seen those of the Old. Exec. Doc., 2d Sess., 33d Congr., Vol. X., No. 46, p. 126.

the way for Mazzini, Kossuth and Ledru Rollin, was not taken as an explanatory commentary on it.<sup>1</sup>

The opportunity was seductive enough to awaken desire

<sup>1</sup> L. D. Evans of Texas said on the 24th of July, 1856, in the house of representatives: "Soulé sailed for Europe. He was in no hurry, however, to reach the goal of his destination; since he delayed in London, to hold repeated consultations with the red Republican chiefs of the revolutionary committee—Mazzini, Ledru Rollin, and Kossuth. The four concerted a system of operations designed to involve this country in a European war, as the ally and instrument of the revolutionary faction. While the three principal powers were engaged in the crises of the eastern war, the torch of insurrection was to be kindled in western Europe, and fanned to a general conflagration.

"The projectors assumed that Spain would deny reparation for the outrages upon American commerce. In that case the United States would instantly despatch an armament to seize the Island of Cuba, as a material guarantee for the redress demanded. But it was well known that a treaty existed between the English, French, and Spanish governments, securing to the latter the possession of Cuba; and, therefore, those powers would be compelled to a declaration of hostilities against us by the terms of their compact on that subject. This sudden state of war would of necessity, and all in a moment, interrupt and bar the intercourse of this country with the western shores of Europe; and our supplies of corn and cotton being cut off both from England and France, it was imagined that the people of both nations would be precipitated into dreadful revolutions. In short, the plan was nothing less than a tremendous conspiracy against the peace of the world.

In order, however, to induce the cabinet at Washington to acquiesce in the whole scheme, it was deemed necessary to procure the assent and concurrence of the American ministers at London and Paris, and hence originated the idea of a conference. Accordingly, these high officials assembled at Ostend, accompanied by Mr. Daniel Sickles, Mr. George N. Sanders, and Mr. Pratt, their subordinates, all men of violent revolutionary tendencies. Mr. Mason, it is said, adopted the project at once. Mr. Buchanan hesitated, but finally consented to lead the movement, as is shown by his signature being foremost on the manifesto. It is asserted, and, so far as I know, it has never been formally contradicted, that Mr. Sanders, as a stimulus to the expected insurrectionary impulse, circulated the revolutionary addresses of Mazzini and Ledru Rollin, through the dispatch of the American legation, both to France and other European countries.

When the American cabinet received the Ostend declaration, they lacked the courage to



in Pierce and in the majority of his cabinet. But, on the other hand, Soulé's programme, despite all that was fanciful in it, was sufficiently realistic to raise the question, whether the endeavor to realize it might not, indeed, lead to this, that the oriental war should develop into a general war amalgamated with revolutions. But was it to be

carry it out, and being urged by the strenuous opposition of Mr. Marcy to all parts of the measure, they reversed the programme of war and revolution which must, otherwise, have set both hemispheres in flames, and would, perhaps, before the end, have covered every country on the globe with blood and ashes" *Congr. Globe*, 1st Sess., 34th Congr., App., p. 1303. A biography of Buchanan which was circulated among the people to the extent of thousands of copies, in the electoral campaign of 1856, in order to obtain votes for him—(the *Life and Public Services of James Buchanan of Pennsylvania*, the author is said to have been Edward P. Underhill)—fully confirms the assertion that the European revolutionists named pursued the plan sketched by Evans, but decidedly contends that the Ostend conference and the government at Washington, did not. According to this representation too, it seems at least very probable that Soulé at first gave them some hopes of a favorable reception of their projects, for thus must we understand the sentence: "The red Republicans . . . did not hesitate to privately and sometimes publicly denounce Mr. Soulé for having signed the Ostend circular, as recreant to the expectations which they had formed in regard to him." The remaining utterances have sufficient historical interest to warrant us in giving them a place here. "The policy of the revolutionary party of Europe in reference to Cuba was this. They desired the United States to assist the Democratic party of Spain in creating a revolution at Madrid, which should dethrone the queen, and place the Democratic party in power, by the establishment of a republic, and then leave Cuba at her option to either remain a portion of the Spanish republic, or seek annexation to the United States. This concession to the United States was to be in return for material aid furnished in effecting the Spanish revolution. The revolution thus accomplished was intended to be the initiative of further revolutions on the continent. The Pyrenees range of mountains which forms the boundary line between France and Spain are populated on either side by the most liberal men in either empire, the great mass of the inhabitants being republicans; and could a republic be established in Spain, the Pyrenees would not only furnish points from which to begin their revolutionary designs against France, but

expected that, at the risk of this danger, the north could be dragged into a war with Spain, in order to present the slavery, in Cuba, with a few more slave states, after its enmity towards slavery had just been pushed to a degree of intensity never before reached, by the repeal of the Missouri compromise, and after the adoption of that bill, in the house of representatives, could have been effected, only by this, that the lying assurance was given, in all imaginable variations, that no one thought of an extension of slave territory? This much was already certain, that the prophecies, according to which the storm in public opinion would not outlast the struggle in congress, were not fulfilled. It was, therefore, very questionable whether the interest of the party would be served by giving just now a new impulse to the opposition current in the north. Pierce did not ignore this but still was inclined to adopt the filibuster policy of his ambassador. He nevertheless vacillated so much that Marcy, not without prospect of success, was able to take up the struggle against Cushing and his other colleagues. In him, the nobly endowed man was found side by side with the politician, to a sufficient extent, to keep him from being won over to a policy of robbery by such bold and shallow sophistry. Moreover, he was fully convinced that the party had, with the Kan-

would form a barrier behind which they could defend themselves against any attack which Louis Napoleon might make. The revolution accomplished in France Kossuth and Mazzini would have but little difficulty in overthrowing the power of Austria in Hungary and Italy. Such were the objects which the revolutionary leaders of Europe had in view in endeavoring to secure the influence of the United States government in support of their policy." Curtis, *Life of James Buchanan*, II, p. 137. Curtis considers the Underhill biography, spite of its small compass and the end it was intended to serve, so reliable a composition, that he only reprints the pages relating to the matter from it, and says nothing himself of the Ostend conference. This furnishes us with a measure of the value of his own work.

the Nebraska bill, burthened itself with as great a load as it could bear. Hence, he had already agreed to the promotion of the purchase project only with some reluctance, and now, perhaps, he drew from the Ostend manifesto the conclusion, that this was a mistake. At all events, he was very clear that he would be committing political suicide if he should lend his hand to this design, and hence he declared that he would rather withdraw than give his assent. This threat had its effect, for Pierce could not conceal from himself that the withdrawal of Marcy, on this account, would not only make the execution of the project impossible but would carry the internal dissolution of the Democratic party a great way farther.

Marcy's answer of the 13th of November tendered Soule the bitter pill sugared as thickly as possible. The Ostend report, said the secretary of state, admitted a double interpretation. Some parts seemed to counsel that it should be intimated to Spain that force would be used if it did not agree to the sale. Other places, on the contrary, seemed to refute this view, a view which the president could not appropriate, because without a material change in the affairs of the island, the existence of the federal government was not exposed to any immediate danger. But if it ever were exposed to such danger, the American people would unquestionably act with the necessary decision.<sup>1</sup>

Soule had committed himself too far to be able to turn back again with decency. On the 17th of December, he petitioned for his recall, and his wish was gladly granted. But the slaveocratic hotspurs emptied the vials of their wrath on Marcy. They went so far as to suspect that he had insinuated himself into the confidence of the Cuban patriots in order to betray their plans to the Spanish gov-

<sup>1</sup> Exec. Doc., 2d Sess., 38d Congr., Vol. X., No. 63, p. 185.

ernment.<sup>1</sup> The charge was entirely baseless. There was no need of attributing any low tricks to the administration in order to explain its uncertain, saltatory policy; it was manifest that in this, as in all other important questions, its ship sailed without the compass of a firm, leading idea and without the ballast of moral principles, and that it therefore, naturally, became the play of the winds and the waves.

The annual message of 1854 contained only one short paragraph on the relations of the United States to Spain, and which deserved attention only on account of its neutral character. The president informed congress that, in consequence of the domestic troubles in Spain, the positions of the two countries to each other were exactly what they had been at the close of the last session, and expressed the expectation that the United States would meet with a more friendly reception from the present ministry, when it came to treat of its well-grounded grievances.<sup>2</sup> Not a word referred to the project of purchase, or to the necessity of "provisional measures."

The opposition had no intention to look upon this silence of resignation as a sufficient atonement. On the very same day, Sellers of Maryland made a motion in the house of representatives, asking the president for information concerning the Ostend conference.<sup>3</sup> On the next day, when the resolution came up for discussion, Bagly of Virginia, chairman of the committee on foreign affairs, asked very impressively, that it should be referred to that committee, whose "conservative" views were sufficiently known. He said that there was not even any authentic information as to whether such a conference had really taken place and

<sup>1</sup> Compare Congr. Globe, 1st Sess., 34th Congr., App., p. 1295.

<sup>2</sup> Statesman's Manual, III., p. 2064.

<sup>3</sup> Congr. Globe, 2d Sess., 33d Congr., p. 3.

declared that, for the honor of the country, he hoped that the compromising articles of Soulé, of the American consul in Liverpool and certain secretaries of legation, which had found their way into the press, might be forgeries. But plausible as he was, his motion was rejected, by a vote of 84 against 83. On the following day (December 6), however, the resolution was reconsidered and referred to the above-named committee by a vote of 93 to 83. Nothing more was said of the matter, but that did not put an end to the Cuban question. Even during this same session, enough was said of it to convince one that it would remain part of the order of the day so long as, in the United States, the "slavocracy" had not become a term obsolete in history.

On the 15th of January, 1855, Boyce of South Carolina made a remarkable speech in the house of representatives, in which he first rebuked the fury for annexation which had taken hold of the entire people, and then in a really statesmanlike spirit endeavored to prove that the annexation of Cuba was by no means to the interest of the slaveholders. What deserved most attention in his remarks was the declaration that the south was on the eve of a great struggle with the superior north and should therefore, not divide its forces by throwing itself on Cuba.<sup>1</sup> Did Boyce believe that he would now be listened to when the slavocracy would not listen to a Calhoun when he so urgently warned them against throwing themselves in a blind crav-

<sup>1</sup> "Another motive which makes me still more determined not to go to war with Spain for Cuba, is, that we of the south are upon the eve of a great struggle with a hostile majority of the north, and we will need all our resources, not to make foreign conquests, but to defend the very ground upon which we stand. I am, therefore, unwilling to weaken our resources, or complicate our position by an attack on Cuba; others, who hear only the songs of peace in the future, may take a different course." *Ib.*, App. p. 93.

ing for more territory into the Mexican war? In the southern commercial convention at New Orleans, S. W. Dalton of Louisiana moved a resolution in which the annexation of Cuba was declared to be absolutely necessary, and in which congress was called upon to take the necessary steps to its annexation immediately.<sup>1</sup> In the house of representatives, Chastain of Georgia declared that the only right course was to take immediate possession of Cuba.<sup>2</sup> And on the 27th of April, 1855, the *Richmond Examiner* announced that the mere threat to emancipate the slaves in Cuba would be a sufficient ground to declare war against Spain,<sup>3</sup> and then of course to wrest the island

<sup>1</sup> "Resolved, That this convention deems the acquisition of the island of Cuba essentially necessary to the proper protection of our commerce in those waters and security of our southern coast and do essentially urge, as a question of paramount national necessity and national supremacy, immediate action by congress on the same." *De Bow, Commercial Review*, XVIII., p. 629.

<sup>2</sup> "Our true course indeed the only course we can adopt consistently with our professions, and creditably to our government is to send a sufficient naval force to the Island of Cuba, blockade her ports, take possession of her territory in the name of justice, and hold on to it in the name of freedom. Providence will do the rest." *Congr Globe*, 2d Sess., 33d Congr., App. p. 195.

<sup>3</sup> "The Africanization of Cuba may be postponed—it may never have been distinctly entertained—but the tendency of the Spanish policy, inspired, directed, shaped by the instigations of England and France, and by its own impotency and jealousy, leads inevitably to this or a similar result. The same law of nations which authorizes the destruction of a hostile fortress on the frontier of a neighboring state, because it may be employed to the injury of the state destroying it, must justify the prevention of the much more serious danger which would result from the Africanization of Cuba, or even from the emancipation of its slaves. The attempt to carry such a project into execution, the first step taken in that direction, even the menace of such a design, would be of itself a grievous act of hostility and I would authorize the United States to take any means of retaliation, or to wage any legitimate warfare which its government and people might think proper and advisable.

Spain has thus given ample provocation for war."

from it. The progressive fraction of the slavocracy which grew from year to year, in weight and numbers, awaited only a new opportunity to take up the frustrated annexation project again, and they were resolved to create the opportunity if it did not offer of itself.



## CHAPTER II.

## THE ELECTIONS OF 1854 AND THE KNOW NOTHINGS

The constitution (Art. II., Sec. 3) makes it the duty of the president, from time to time, to give to congress information concerning the state of the Union, and to recommend to its consideration such measures as he shall judge necessary and expedient. Following Washington's example, all the presidents have fulfilled this duty by their so-called messages, which have been divided, in accordance with the nature of the matter treated of in them, into two classes, annual messages and special messages. The former are sent to congress at the beginning of every regular session and draw a more or less complete picture of the state of the home and foreign affairs of the country. This is so completely in harmony with the intention of the constitution that it may be said that the president would be shirking the fulfillment of a duty expressly imposed upon him by the constitution, if, in an annual message, he should make no mention of a question which undoubtedly concerned the weal and woe of the country in an eminent degree, and which, moreover, arose in a form which made its discussion in congress unavoidable.

The annual message of the 4th of December, 1854, told congress and the country nothing about Kansas or about the slavery question, in general. Hence either Pierce had become guilty of such a shirking of duty, or there was really nothing to say upon these matters, that is, the prophecies of the "Nebrascals" had been fulfilled, the

repeal of the Missouri compromise had established peace and the principle of non-intervention was the solution of the slavery question.

There certainly had been many people who, in good faith, expected this wonder from the Kansas-Nebraska bill, partly because, in their doctrinarian simplicity, they were not able to see through the sophisms of Douglas, partly because their anxiety at seeing sectional contention driven to the verge of catastrophe, made them readily believe what they would have immediately recognized as impossible and absurd, if fear had permitted them to make any use at all of their political judgment. But their number was certainly not increased by the message. No one was ingenuous enough, not to say to himself, that the old song of peace secured would have resounded once more, in the fullest accords, if the boldest art of interpretation could have found any support whatever for the opinion that the events were a confirmation of the beautiful promises that had been made. The silence of the message was so eloquent that it could not but make an impression even on this circle of visionaries. Things did not develop so rapidly that the illusions formed could have been completely dissipated, but not even an apparent standstill had been reached, and everything that happened shook the dreamers very urgently, so that the number of the awakening on both sides grew steadily larger; but still there were only very few who had worked themselves completely out of their optimistic self-deception.

In his own as well as in his opponents' camp, Seward was considered not indeed, universally, but still by the greater number, as the most distinguished personage among the leaders of the anti-slavery movement. To his speeches and declarations was ascribed the character of party manifestoes and programmes more than to those of

any other politician with such a tendency, and that by friend and foe, alike. Whether, and to what extent, this was warranted could not be known until the process of formation of the new party had progressed much farther. His own views might be greatly modified yet, by the progressive development of events. But still it was certain that his views were shared by many, and that even a greater number had their thinking, in respect to the slavery question, directed by him; and it was further, incontestable that—leaving out of consideration the real abolitionists who took no part in political life—he and his close adherents belonged to the radical opponents of slavery, although there may have been others who stood further yet to the left.

Seward had cast a horoscope of the country, during the struggle, which might, at most, alarm the slaveholders; all others would have hailed its realization with delight. In his speech of the 17th of February, 1851, he, indeed, opposed the delusion that a legislative act could prevent the further agitation of the slavery question as decidedly as he had ever before, but after his warning words, he drew a picture of the future which gave more evidence of the faith which moves mountains than of the spirit of the realistic politician. If the slavery question, he said, could really be banished from the halls of congress, the slave states would have to contend with the angel of liberty on their own soil, and to be overcome by him, as the northern states had once been overcome by him, to their salvation. But this struggle could have no unhappy results, for the institutions of the country were such that the conflict of views on slavery, as on all other questions, could be only a peaceable one and have only a beneficent termination.<sup>1</sup>

<sup>1</sup>—I much mistake if, in that case, you do not meet it there where we who once were slaveholding states, as you now are, have met, and, hap-

Certainly, the struggle between the opposing principles would not only break forth in the slave states themselves, if the slavery question found admittance no longer into the Capitol at Washington, but it was already raging, and its outbreak dated as far back as the origin of the Union. But if one wished or had to wait until the angel of freedom had gathered about him there such a host that the slavocracy would not have been able to hold out against it, or until the slavocracy had opened their eyes wide enough voluntarily to lay down their arms, he would have to exercise a patience which perhaps does not exceed the limits of Christian brotherly love, but with which practical politics can no longer reckon. The development of the slavocracy had gone on uninterruptedly in the opposite direction. Jefferson had trembled when he remembered that God was just; Patrick Henry had confessed that, in the last analysis, only moral weakness and egoism prevented the abolition of slavery; Calhoun, on the contrary, saw in it a good, a positive good, and now the *Richmond Examiner* declared free society was a monstrosity whose days were numbered.<sup>1</sup>

pity for us, encumbered before it, namely, in the legislative halls, in the churches and schools, and at the fireside, within the states themselves. It is an angel with which sooner or later, every slaveholding state must wrestle, and by which it must be overcome. Even if by reason of this measure, it should the sooner come to that point, and although I am sure that you will not overcome freedom, but that freedom will overcome you yet I do not look even then for disaster or unhappy results. The institutions of our country are so framed that the inevitable conflict of opinion on slavery, as on every other subject, can not be otherwise than peaceful in its course and beneficent in its termination." *Congr. Globe* [1st Sess.] 2d Cong., App., p. 155.

1. Thousands of facts that had been unrecorded before, became proof as strong as Holy Writ, that Free Society is a real and signal failure. Free society does well enough in a new country. . . . Free soil has become diseased by abolishing slavery. . . . Slavery may be administered under a new name—the kind physician nature, with a

After what had been said about the outrageous iniquity of the Missouri restriction and on the undoubted effects of the unconditional adoption and putting in practice of the principle of non-intervention, it was to be expected that jubilation and shouts of triumph would fill the entire south, after the Kansas bill had become a law. Instead of this, the middle party which had won the victory did not cease to pretend to be aggrieved and vexed, and the hotspurs continued to lecture and incite them further. Their programme and confession of faith had remained entirely unaltered: either the south must learn to stand firmly and unanimously together and resolve to speak in acts, or it is certain to meet with new insults and wrongs.<sup>1</sup> This was the frank announcement, that they

dress peculiar to the faculty, may sugarcoat it with an attractive exterior and a mellifluous apparition; but come back in fact it will and must. . . . They talk of slavery as an enormity, we see that free society—not to mention free negro society—is a monstrosity. Like all monsters it will be shortlived."

"We feel confident, from the present appearances and future probabilities that it will not be long before the people of the south will be called on to resist, or submit to new insults and wrongs, and we cannot withstand the inclination to express the hope, that they will either submit quietly or resist with more firmness and unanimity than they did on a recent occasion. Nothing but a union of all parties in the south in the defence of the rights of all, can preserve these rights, and the Union at the same time. . . . We know for a certainty, that had not one southern member after another, in the early stages of the compromise discussion, deserted his position as a faithful sentinel over the rights of his constituents, they would have found aid from the north sufficient to defeat the Wing-Abolition-Free-Soil conspiracy. But they wavered and vacillated, made one step forward and two backward, or on one side, and those who would have stood by them even at the risk of forfeiting their popularity at home, did not deem themselves called on to sacrifice themselves for the sake of rights which those most immediately concerned, did not think worth defending. . . . In future their threats will be launched at, and they must deal in actions not words. *The United States Herald* June, 1854, pp. 397-405.

would not even allow the Kansas-Nebraska bill to be considered an armistice which might be terminated at any time, because the slavocracy could effectively defend themselves only by acting still further on the offensive, and also by breaking down the barriers which, with their own co-operation, had been erected against them. And they, certainly, could not be reproached with being satisfied with vain words. They were only an evanescent fraction of the entire people, and hence the immediate transformation of their wishes into laws was excluded. But spite of their paucity of numbers, they had always finally reached their end by boldness and tenacious perseverance. The course and issue of the last struggle were not calculated to shake their self-confidence. Considering their entire past, it should have been believed that they were in bitter earnest with the new agitation which they were now endeavoring to start. Instead of this, however, so little attention was paid to the matter, that it was, at most, mentioned, occasionally, only as a characteristic curiosity. Spite of all the bitter experiences which had been gone through during the last thirty-five years, it was considered unimaginable, that the grandchildren of the patriots of the war of independence could have so far degenerated as to really wish to make an assault on the last bulwark which the wisdom, conscience and sense of freedom of the fathers had erected against the curse of slavery. The slavery question was not yet understood, because so little was known of the history of slavery, and hence the slaveholders were not understood. The very fact that the attack was directed against the last position, the key to the whole battle field, made it doubly certain that there was question not simply of an empty demonstration. The expectation was fully grounded, that the immense majority of the southern population and even the slaveholders

would refuse their co-operation in the new attempt on freedom, with sincere indignation. But the question was, whether this was not the inevitable consequence of the history of slavery and the slavery question up to date. Hitherto, it had appeared that the slavocratic instincts were most fully developed in the Fire Eaters. If such were the case now also, they would draw the masses by the unbreakable cable of the logic of facts after them, slowly but surely, and the masses would end by inscribing that upon their banner from which they had at first turned away with horror. The honesty of their horror only heightened the danger. If Slidell's demand to dissolve the treaty relation with England and France with reference to the suppression of the African slave trade, because the squadron of surveillance maintained at great sacrifice had achieved no results worthy of mention,<sup>1</sup> was assented to and supported only by a small circle, was there any danger that the advocates of the resumption of slave importation would be able to propagate their views and make converts to them? But, on the other hand, when it was recalled how the entire south had once stood on this question, was not the fact that it was dared openly to express the wish, proof of such a possibility? It was all the more to be

<sup>1</sup> The report of Slidell of the Committee on Foreign Relations is printed in the *N. Y. Times* of June 2, 1854 although the matter was brought forward in a secret executive session of the senate. Slidell appealed to the testimony of Mr. Rutt who claimed on the 16th of March, 1850 before a committee of the House of Commons, that the importation of slaves had increased from 1842 to 1847 from 30,000 to 80,000. Sir Charles Holtham who for a long time commanded the English surveillance squadron expressed the conviction before the same committee that the exportation of slaves was "entirely dependent upon the commercial demand for slaves" and remarked "experience has proven the present system to be futile." The maintenance of the surveillance squadron cost \$7,400,000, of which sum about \$1,000,000 was borne by the United States.



expected that this question would force itself upon the north as the fanatics of slavery had sent up their *ballons d'essai* even before the repeal of the Missouri compromise.<sup>1</sup> And if attention had not been arrested by the greater boldness with which the idea was expressed immediately after the achievement of this victory, one could not fail to have been struck by the sober manner in which it was sought to suport it. Passionate, provoking redoubtades might much more easily have been passed by unnoticed than the cold, measured reasoning of the *Charleston Standard* which, in a sympathetic article (June 21, 1854) on Slidell's motion, proved that it was foolish and illogical to justify the maintenance of slavery by the claim that it was a blessing both for masters and slaves, and at the same time to stamp the most effectual means for its propagation as a monstrous evil and one of the blackest of crimes. And what made this irrefutable argument especially noteworthy was the frank declaration that it was probably not yet time to draw its practical consequences, but that the south must ultimately do it.<sup>2</sup> A few months later, this *must* was exhaustively proved and explained by the *Charleston Mercury*. The south, said that influential

<sup>1</sup> The *Southern Standard* writes: "We can not only preserve domestic servitude, but can defy the power of the world. With firmness and judgment we can open up the African slave immigration again to people the noble regions of the tropics." Quoted in the *Independent*, Nov. 17, 1853.

<sup>2</sup> "It is upon these principles, and with a view to the ultimate abandonment of all restrictions upon the slave trade that we approve the measure introduced by Mr. Slidell. We hope our views will meet the attention of presses in the southern states. They are premature perhaps, but it is very certain that upon us alone must ultimately depend the fortunes of our own peculiar system of society, and it is not too soon to give it a voice and let it speak and act upon the great principles which affect it, in obedience to its own interests and its own necessities."

journal, must be a unit in respect to slavery; to that end, every white man should, as far as possible, become a slave-owner; but a material increase of the number of slave-holders was possible only on condition that the number of slaves so increased that their price might greatly decline.<sup>1</sup>

In the north, it was not recognized that this programme must have a future because the forcible logic on which it rested would prove stronger than the traditional objection to the African slave trade. On the other hand, the slavocratic fanatics who had the courage thus to follow the principle, that slavery was a positive good to its ultimate consequences, overlooked that they destroyed this last basis of their argument themselves, since it furnished an

<sup>1</sup> "Slaves were never so high in the south. They have, within the last few years, advanced fifty per cent in price and, in some instances, even more. To what is this attributable? Is it to an increase in the value of their productions? We think not. Taking the three great staples, cotton, rice and sugar as the standards, we can discover no such increase in the profits of their culture as would warrant this advance. Indeed, it may well be doubted, whether planting throughout the south, during the last ten years has been as profitable as for the same preceding period. It has, certainly, not been more so. . . . The influx of gold from California, in swelling the cost of almost every species of property necessarily affected that of slaves. But there is a reason deeper and beyond this. It is the scarcity of, as compared with the multiplying demands for, labor; demands, too, so imperative that they must be supplied at almost any cost. . . . But increase the supply of labor, and thus cheapen the cost of slaves and the south will escape this internal peril. The number of slaveholders would multiply, the direct interest in its preservation would be more universally diffused, and that great necessity of the south—union in defence of slavery, more readily accomplished. If it were possible, every man in her limits should be a slave-owner. There would then be no chances that 'Brutus' and like incendiary publications, would find response in any quarter of the south, exciting one class against another, and deceiving a part into believing that their fate can be different from that of the whole." *The Charleston Mercury*, November 7, 1854.

irrefutable proof that the slavocracy, spite of all political victories, were forced more and more by the uninterrupted development of actual circumstances, before the question of life or death. By calling the attention of their associates to the fact that they must rouse themselves to a new, the last but also the hardest struggle, these fanatics told their opponents that, spite of all defeats hitherto, they might enter on the contest anew, with the certainty of victory, so long as that had not been wrested from them which almost the entire population of the south still looked upon as inviolable.

This was as yet understood neither on the one side nor the other, but there was as little need here as there, on that account, for a summons to continue the struggle. That Seward's "angel" was called to play a great part in the drama was already certain, and we shall yet see that that part was even now locally of the most eminent importance. But whatever the future might bring forth, that drama had not yet become exclusively the affair of the southern states, but the United States was still the theatre on which the piece was played. And it appeared with certainty from the facts cited, that thus far the devotion of the controlling elements of the south to slavery became more and more unconditional and more and more enthusiastic. But Seward had rightly declared it to be much harder to imagine that the north would allow the love of freedom to be wrung from its heart and brain than that the slavocracy should cease to look upon slavery as a treasure. Hence in the free states the number of those grew steadily larger who not only proclaimed with their lips but proved by their acts, that they would never recognize the unholy work of the 33rd congress as an armistice, to say nothing of their regarding it as the conclusion of a peace. To the honor of the American

people be it said that from this time forward the responsibility for the continuance of sectional strife in the land rested to the extent of a good half upon their shoulders. It is vain labor to wish to clear them fully from the charge that they laid hands on the constitutional rights of the south. On the whole, they maintained the defensive, protecting their own good rights and the inheritance of their fathers which shameless politicians ventured to sell to the slavocracy. But they acted on the offensive also, and then they repeatedly overleaped the limits of the law and the constitution. Whoever thinks that world-historic processes are to be governed by the same rules of law, and looked at from the same standpoint, as a private transaction, before a civil court of justice, may charge this upon them as a crime. But the mind that is able to comprehend that, in the life of nations, political doings are not under all circumstances to be finally judged in accordance with the constitution and the laws, will not on that account, condemn them. Thus far the north had only endeavored to ward off the blows of its opponents, and it had been always forced farther and further back. Now it occasionally returned a blow which had to be notched in the tally of its constitutional sins, but which afforded evidence that it had recovered its self-respect. This, however, was the fundamental condition of the solution, at some future time, of the terrible problem of the nation.

Chance would have it that, on the very day on which the adoption of the Kansas-Nebraska bill, in the house of representatives, cast the north into violent excitement, the arrest and extradition of a fugitive slave in Boston, fanned the flames of passion still higher. The attempt to liberate Anthony Burns, by force, failed, because some of the leaders of the abolitionists allowed themselves

to be carried away by their zeal, to venture a *coup de main* without proper preparation, contrary to the programme agreed upon with their associates. But the impression which the event created on the people of the city and state must not be measured by the fact that only a handful of men attempted the futile storming of the prison, in which a citizen summoned to act as a guard lost his life. How powerful the echo found by the speeches made in that old cradle of liberty, Faneuil Hall, was, was sufficiently shown by the precautionary measures taken by the authorities. Besides the entire city police, militia, marines and regular troops were summoned and rode up to the court house with cannons loaded with grape-shot to see the fugitive safely transferred to the revenue cutter, *Morris*, which, by order of the president, was to convey him to Virginia. Thanks to these measures, the slaveryocracy had the satisfaction to see the fugitive slave law executed in Boston, but it had cost over one hundred thousand dollars to deliver this one slave to his master!<sup>1</sup> On the shore, a clergyman loudly besought heaven, in its mercy, to bless the labors of those who wished to preserve the country from the further commission of such crimes. The assembled multitude listened to his words with bared heads and beating hearts. But over a hundred of the best and most respectable men formed, next day, a secret society, the Boston Anti-Man-Hunting League, the object of which was by stratagem and if necessary by force, to frustrate the attacks of the man-hunters, and both houses of the legislature by a large majority petitioned the governor to remove George Loring who had acted as commissioner in the case and ordered the extradition, from office.<sup>2</sup>

<sup>1</sup> Hambleton, History of the Political Campaign in Virginia in 1855

<sup>2</sup> The history of the Anthony Burns case is very fully related by

Did the slaveholding interest believe that the triumph of having snatched Anthony Burns from his asylum, was, nevertheless, not too dearly bought? The increased activity of the "underground railway" might give it an undoubted answer to that question,<sup>1</sup> for it would have been simply ridiculous to question that this phenomenon was intimately connected with all such triumphs. And the material loss which the slaveholders suffered therefrom, was the element of least importance. The phenomenon showed that the number of those grew steadily who saw so glaring a contrast between the laws resting on human authority and the "higher law," that they felt themselves compelled in conscience to become law breakers. But this was of incomparably greater importance, because it furnished a correct measure for the intensity of the reaction which the last victories of the slaveocracy had called forth. Nor could the slaveocracy ignore this, because now the extent of the reaction began to correspond with its intensity.

The character of the American people afforded a guarantee that those would always constitute an evanescent minority, who considered themselves entitled, in opposi-

Wilson in his *Rise and Fall of the Slave Power in America*, II, pp. 425-441. Compare also the article in the *N. Y. Tribune*, of June 3, 1854. Pike *First Blows of the Civil War*, pp. 241, 242.

<sup>1</sup> The *Intelligencer*, of St. Louis, writes: "The evil has got to be an immense one, and it is daily becoming more aggravated. It threatens to subvert the institution of slavery in this state entirely, and unless effectually checked it will certainly do so. There is no doubt that ten slaves are now stolen from Missouri to every one that was 'spirited' off before the Douglass (free) bill." Quoted in the *Independent* of January 1<sup>st</sup> 1855. In its number of April 5, 1855, the same journal says that the number of fugitives by the "Ohio underground line" was twenty-five per cent greater than in any previous year. "Indeed many masters have brought their hands from the Kanawha (West Virginia) not being willing to risk them there."

tion to the legal order of things, to take the law into their own hands; but the character of the people and their whole development hitherto under the constitution were such, too, that, whenever the conviction became widely spread and deeply rooted, that there was a contradiction between what was law and what was right, an attempt was made to set authority against authority and fight laws with laws.

In Racine, Wisconsin, a fugitive by the name of Joshua Glover was arrested in the spring of 1854, and taken to Milwaukee. There there were not, as in Boston, infantry, marines and artillery whom the president might direct to act as a safe escort to the hunters and their victim, and the self-evident truths of the Declaration of Independence had not yet become "glittering generalities" there. The blood shot hotly towards head and heart at the sight of a man bleeding and in chains, dragged through the streets of the free city that he might again be forced back into the yoke of slavery which he had escaped at the risk of his life. A crowd broke into the prison, Glover was rescued successfully, and escaped into Canada. This, however, did not end the matter; it was followed by an unexpected after-piece which it was believed, for a moment, would have the most serious consequences. Some of the instigators and leaders of the people, were brought to account. The supreme court of the state, however, decided in favor of the accused, basing its judgment on the unconstitutionality of the Fugitive Slave Law of 1850. It was natural that this decision should call forth loud jubilation on the one hand and violent acrimony on the other, but there was no reason to build great hopes or fears upon it. The objection that the Fugitive Slave Law of 1793, had been declared constitutional by the federal supreme court. Judge Vinton met with the claim, that the two laws were not in



principle the same in every respect, nor even similar. This might be correct, but there was not the slightest doubt that the constitutionality of the new Fugitive Slave Law would be questioned as little by the federal supreme court as the constitutionality of the old one. If the example of the supreme court of Wisconsin should find imitation, the slavocracy needed only to bring one case before the supreme court of the United States, in order to wrest that weapon from its opponents. Every attempt, by judicial judgment, to subvert the odious law was without prospect of success. But, on the other hand, that decision of the supreme court of Wisconsin, was by no means worthless. Although the hope was not fulfilled that other state courts would have and use the opportunity to express their agreement with that judgment, the moral support which the opposition obtained from it, was not to be lightly estimated.

The roots of the nullification heresies were so completely dead, in the free states, since the days of the Hartford convention, that no efforts were made to resuscitate them. But it had not been forgotten how frequently and how effectually the state legislatures, in former times, had thrown obstacles in the way of the federal authorities, and the supreme court of the United States itself had shown them how they could do so in respect to this question, without putting themselves on the ground of the Kentucky resolutions. In the celebrated decision in *Prigg vs. The Commonwealth of Pennsylvania*, exclusive legislative power in respect to the extradition of fugitive slaves was claimed for congress.<sup>1</sup> On this was based a large num-

<sup>1</sup> "The clause is found in the national constitution, and not in that of any state. It does not point out any state functionaries, or any state action to carry its provisions into effect. The states cannot, therefore, be compelled to enforce them; and it might well be deemed an uncon-

ber of so-called "Personal Liberty Laws" which, in an ingenious manner, endeavored to wrest their booty from the slave hunters.<sup>1</sup> All state officers who, in any way, assisted the slave hunters were threatened with heavy fines; lawyers who conducted the cases of the alleged owners were forbidden the further practice of their profession; the confinement of fugitive slaves in state prisons was prohibited, etc. These and similar provisions were justified by the fact that according to the decision of the federal supreme court above mentioned the states were not obliged to take measures of their own for the execution of the constitutional clause in question. But the laws contained provisions which could not be covered by this argument. Above all, in contradistinction to the Fugitive Slave Law, a trial by jury and the privilege of the writ of *habeas corpus* were secured to fugitives whom it was wished to reclaim. In justification of this, it was said that it was not thereby sought to hinder the extradition of fugitive slaves, but only to prevent free persons from being deprived of their liberty by the "due process of law" expressly required by the constitution. This was certainly no sophistical pretext. The enormities of the Fugitive Slave Law made the danger seem great enough, that, sometimes, free colored people would be, both *bona fide* and *mala fide*, condemned to slavery. Nevertheless the principal object of these provisions, as of all the laws, was unquestionably to protect real fugitives from their pursuers. The law of Michigan, for instance, gave very

stitutional exercise of the power of interpretation, to insist that the states are bound to provide means to carry into effect the duties of the national government, nowhere delegated or intrusted to them by the constitution." Peters' Rep. XVI, pp. 413, 416. Curtis, XIV, p. 424.

<sup>1</sup> A short index of the various Liberty Laws is to be found in De Bow, *Commercial Review*, XXIX, pp. 370-373.

plain expression to this.<sup>1</sup> But in and of itself, that object—the constitutionality of the federal law supposed—made these laws unconstitutional. To recognize this, one needed no legal training, and no hypercriticism or lawyerlike craftiness could argue it away. The states did not need to, and, as Story says, perhaps should not, by measures of their own, see to the execution of the constitutional clause in question, but this only because they were bound in good faith to submit to the enforcement of it in the manner prescribed by the federal legislature. This was self-evident, but it was also expressed in the clearest words in the decision of the supreme court on which the originators and defenders of Liberty Laws relied.<sup>2</sup> These laws were passed in the worst of faith, for, while they formally left the Fugitive Slave Law unaffected, they contemplated its practical nullification. That spite of this, very honest and law-abiding people felt no scruples whatever in reference to the Liberty Laws, is explained by the fact, that their moral indignation made it impossible for them fully and

<sup>1</sup> "The people of the State of Michigan enact, that it shall be the duty of the prosecuting attorneys, within their respective counties, whenever any inhabitant of this state is arrested or claimed as a fugitive slave, on being informed thereof, diligently and faithfully to use all lawful means to protect, defend, and procure to be discharged every such person so arrested or claimed as a fugitive slave." *Congr. Globe*, 33d Sess., 33d Congr., App., p. 219.

<sup>2</sup> " . . . it would seem, upon just principles of construction, that the legislation of congress, if constitutional, must supersede all state legislation upon the same subject, and by necessary implication prohibit it. For, if congress have a constitutional power to regulate it in a given manner, and in a certain form, it cannot be that the state legislatures have a right to interfere, and, as it were, by way of complement to the legislation of congress, to prescribe additional regulations, and what they may deem auxiliary provisions for the same purpose." *Peters' Rep.*, XVI., pp. 617, 619. *Currie*, XIV., p. 426. If the states could not even pass "auxiliary provisions" they could, of course, still less by laws of their own, deprive federal laws of all force.

objectively to weigh the question, whether and to what extent, their personal convictions of the unconstitutionality of a law justified them in playing the legislative authority of the states, in this manner, against that of the Union. Their judgment was influenced by their feelings to such an extent, that they considered themselves authorized, not only morally but also legally, in the interests of justice and humanity, to press the letter of the law by all the arts of the advocate, into service against its spirit and its aim. Even if we should allow the full validity of the reasoning which was intended to establish the constitutionality of the liberty laws, they unquestionably overshot the mark, for they were directed not only against the provisions of the Fugitive Slave Law declared to be unconstitutional, but evidently sought to prevent the execution of the constitutional clause on the extradition of fugitive slaves.

Experience soon showed that, in this respect, the importance of the Liberty Laws had been very greatly overestimated. Henry Raymond thought, in 1860, that the south had lost scarcely a dozen slaves by them.<sup>1</sup> But

<sup>1</sup> He writes in a letter of the 26th of November, 1860 to W. L. Yancy: "You must be aware moreover that the Supreme Court has released the state from all obligation to return fugitive slaves by declaring that duty upon the federal government; that the law of 1850 in fulfillment of that duty by its defective provision for proofs of identity subjects free citizens of northern states to the danger of being carried into slavery, as has happened once at least since its enactment, and that the professed object of these personal liberty laws has been to protect free citizens from that peril, and not to prevent the return of actual fugitives. . . . Their enactment has been usually due to the rage of local partisans for local popularity. It has been an act of the machinery of our political contests, and as a matter of practical importance I presume I am quite right in saying that all the personal liberty laws that have been passed in all the states have never released back to slavery a single slave from the service of their white and black masters." *Henry A. H. J. Raymond and the New York Press* p. 42.

they had not, on that account, been passed in vain. They were so many demonstrations which, in the most forcible manner, made the fact clear, that the politicians, by their course on the Kansas-Nebraska bill, had strained the bow, and that it was broken in their hands. Now, only the politically blind could fail to recognize that the slavery question had entered an entirely new stage of development. The opposition no longer wished only to maintain the line to which it had been forced back, but it endeavored to regain a part of the ground it had lost, during the past five years. And the weapons it made use of to do this, it tested, in the first place, by their weight and sharpness, and not by ascertaining whether the genuineness of the stamp of their constitutionality, could be called in question.<sup>1</sup> The destinies of the Union, so far as the slavery question was concerned, were now no longer to lie exclusively in the hands of the federal government. A vote of the most emphatic distrust was sent it, not in words but in deeds, since now men had recourse to self-help, so far as that could at all be done, without their being obliged to confess that they had overstepped the limits of the constitution. Of what use could it now be to the slavocracy, if their old demands were granted and the slavery question excluded by treble, hermetically closed doors from the Capitol at Washington? Now it had really to defend what had been

<sup>1</sup> In Massachusetts, Governor Henry J. Gardner sent the bill back to the senate with his veto, accompanied by an opinion of the attorney-general, John H. Clifford, and referring to another opinion of the judges of the supreme court who unanimously declared the bill unconstitutional. It was, nevertheless, adopted over the veto in the senate by a vote of 32 against 3, and in the house by 229 against 76. *Boston Evening Telegraph*, May 21, 1855. The two first mentioned documents are printed in full in the *Boston Daily Advertiser* of the 22d of May, 1855.

already expressly granted it by federal legislation and also what had been surrendered to it, in an indirect manner. Even if not a solitary fugitive slave had owed his redemption to the Liberty Laws, that fact, therefore, would not detract in the least from their political significance. They were eminently important, not because of their direct practical effects, but as symptoms, for they no longer permitted any doubt that the revolution which had begun to take place in the thought and feeling of the population of the free states, had descended to the uttermost depths and taken hold of the masses of the people. It was, therefore, not surprising, but warranted and very natural that the excitement and acrimony which the Liberty Laws called forth were greatest, not in the border states, but in the cotton states. Instead of—as the "Nebrascals" had confidently promised—being inertly resigned to its fate, the north, for the first time, had the manhood to cast the gauntlet into the face of the slavocracy. The south fully grasped the meaning of this fact, and drew from it the correct conclusion, that it made it an irresistible necessity for the south to get hold of the prize, to which it had been able to obtain, in 1854, an expectancy but not a perfect title. On the soil of Kansas, it had now to be decided, whether the slavocracy, supported by the federal laws, or the opposition in the free states, who had resolved to help themselves, were the stronger.

On the 29th of June, 1854, Andrew H. Reeder was nominated by Pierce governor of Kansas. Reeder was a Pennsylvanian, but so decided a partisan of the administration, that the slavocracy had every reason to be satisfied with the choice made of him. Its interest was unquestionably best served, not by a southerner but by a northern man with southern principles, and a northern man with southern principles, Reeder was considered to such



a degree, that it was reported he had expressed the intention to take a slave with him to Kansas himself.<sup>1</sup> But even if Pierce grasped in this nomination, the first opportunity to show the slavocracy by his acts that it need not fear he would, under the pressure of the public opinion of the north cultivate a treasonable impartiality, he evidently did not believe that for its cause there was danger in delay, since he allowed it to come to pass that Reeder did not go to Kansas until the beginning of October.

People in Missouri thought otherwise in respect to this point. The champions of the slavocratic interests in that state, which was most directly interested in the question, thought that they should not allow a moment to elapse unused. They had been resolved from the first not to permit it to be a question, whether the south or the north, in the peaceable rivalry of immigration should win the prize, and they without delay had made preparations to secure the decision of the contest in their favor by other means. In Weston, a society was formed which, under the name of the Platte County Self-Defensive Association, as early as July 29, 1854, announced in a public meeting, by a formal resolution, that it would always hold itself ready, at the request of the citizens of Kansas, to expel the immigrants who should come into the territory under the auspices of the northern emigration aid societies. At the same time, it boasted of its moderation because it intended to interfere only when called upon to do so, since,

<sup>1</sup> Edmundson of Virginia, a witness whom the south certainly could not object to, declared in the house of representatives: "I desire to say to my colleague (Carlile, who had called Reeder a Pennsylvania Free Soiler), that the gentleman from Pennsylvania, who was appointed governor of Kansas, avowed himself in favor of slavery, and that he was going to take a slave with him." *Congr Globe*, 1st Sess., 34th Congr., App., p. 53.



even without being called upon, its members would be justified in driving the thieves and murderers from their own borders.<sup>1</sup>

The example of Weston and Platte County was imitated. In the rest of Missouri and even in other slave states, secret societies under various names were formed with the same objects in view.<sup>2</sup> The borders of Missouri, however, remained the principal source of the movement. From them, the first settlers moved

<sup>1</sup> " . . . The only pledge we have given touching the expulsion of any person from Kansas, is one which we expect ere long to be called on to redeem by the good men who have gone to Kansas from the non-slaveholding states. That pledge is, that we will, when called on by the citizens of Kansas, aid them in expelling those who are exported to that territory by the Abolition Aid Societies . . . they are to us as would be a band of Blackfeet or Comanches who should encamp upon our borders for the avowed purpose of stealing our cattle and horses, of plundering our farms and villages. We would be justified in marching to their camp and drive them back to their dens, without waiting for their attack. We are not bound to wait until they have stolen our negroes, burned our slaveholding towns. But we have been so 'lawabiding and orderly' that we have not done this; we have simply said, 'we will when called upon,' go to the aid of our friends, and assist in expelling those who proclaim their purpose to be the expulsion of our friends. Robbers and murderers have no right to call on the law for protection." B. F. Stringfellow, Report made to the Platte County Self-Defensive Association, St. Louis, 1854, pp. 6, 7.

<sup>2</sup> "About the same time (the fall of 1854), and before any election was or could be held in the territory, a secret political society was formed in the state of Missouri. It was known by different names, such as 'Social Band,' 'Friends' Society,' 'Blue Lodge,' 'The Sons of the South,' . . . It embraced great numbers of the citizens of Missouri, and was extended into other slave states and into the territory. Its avowed purpose was not only to extend slavery into Kansas, but also into other territories of the United States, and to form a union of all the friends of that institution. . . . This dangerous society was altogether the most effective instrument in organizing the subsequent armed invasions and forays." Reports of Committees, House of Represent. 34th Congt., 1st Sess., Vol. II., No 200, p. 3.

into the territory. These had of course been, in part, members of the secret confederation in Missouri, and, almost without exception, approved its aims. Not only their personal interest urged them to emigrate, but they considered themselves as pioneers and champions of the slavocracy and were resolved to fulfil their mission with daring energy. The squatter confederation, into which they had entered, as early as in September, issued a threatening manifesto which could, at least, not be denied the quality of complete frankness. Kansas, it declared, should belong to slavery and should, therefore, be secured to slavery. We shall, therefore, make use of our right and tolerate no one who in any way whatever, imperils our right of property in our slaves.<sup>1</sup> Now this was squatter sovereignty, in the most audacious sense of the word. The Missouri compromise had been repealed, because the north and the south had an equal right to the territories. And now, before the law on the organization of Kansas as a political commonwealth was put into execution, that is before that organization had become a fact, the crowd first come announced that they had brought slaves with them, and that they would, therefore, in accordance with their rights, expel all those who had different views and wishes in regard to slavery, from the territory.

When this proclamation was issued to the country, a proclamation which disfranchised the entire population of

<sup>1</sup> "That Kansas Territory, and as a consequence the state of Kansas, of right should be, and therefore shall be, slave territory."

"We hereby declare that, as this society embraces nine-tenths of the present settlers of this territory, we are entitled to, and will exercise the right of expelling from the territory, or otherwise punishing, any individual or individuals who may come among us and by act, conspiracy or other illegal means, entice away our slaves, or clandestinely attempt in any way or form to affect our rights of property in the same." Congr. Globe, 1st Sess., 34th Congr., App., p. 301.

the free states, to the extent that they did not consider an extension of slave territory desirable, no immigrants had come to Kansas who had anything to do with the emigration societies, and the number of other settlers from the free states was yet very small.

The election of a territorial delegate to congress, on the 29th of November, 1854, afforded the parties the first opportunity to measure their strength. B. F. Stringfellow, who had rendered great service in the organization of the secret leagues, in the border counties, told the Missourians to have no qualms of conscience but to go to Kansas on election day, and with bowie knives and revolvers, to see to it, that the election went as the slaveholding interest, which was alone decisive, demanded.<sup>1</sup> One would have supposed that the bold shamelessness and massive brutality of this summons would have acted like a stream of cold water on the fanaticism of the inhabitants of the border. But the literal execution of the monstrous programme showed that Stringfellow had given the right key note.<sup>2</sup> In the first election in the territory, the facts,

"To those who have qualms of conscience as to violating laws, state or national, the time has come when such impositions must be disregarded, as your rights and property are in danger, and I advise you, one and all, to enter every election district in Kansas, in defiance of Reeder, and his vile myrmidons, and vote at the point of the bowie knife and revolver. Neither give nor take quarter, as our case demands it. It is enough that the slaveholding interest wills it, from which there is no appeal. What right has Governor Reeder to rule Missourians in Kansas? His proclamation and prescribed oath must be repudiated. It is your interest to do so. Mind that slavery is established where it is not prohibited." *Ib.* p. 81

<sup>1</sup> General Pomeroy says in a memorial addressed to congress: "The first ballot box that was opened upon our virgin soil was closed to us by overpowering numbers and impending force. So bold and reckless were our invaders, that they cared not to conceal their attack. They came upon us, not in the guise of voters to steal away our franchise, but boldly and openly, to snatch it with a strong hand.

at length, taught what the magic words "popular sovereignty," of which no one would or could give a definition in the debate on the Kansas-Nebraska bill, really meant. They meant simply that the border counties should, by illegal ballots, and if necessary by means of cold steel, powder and lead, see to it that Kansas should fall to the lot of slavery.

Douglas had not intended this; but would he have the courage, and be able, to object to this interpretation of the words, once that interpretation had become a fact? It did not so much as occur to him to ask himself the question. He declared the whole story of the invasion a mere fiction,<sup>1</sup> although even Oliver of Missouri did not venture to characterize the charge, directly, as untrue,<sup>2</sup> and although Reeder emphatically asserted that it was perfectly

They came directly from their own homes, and in compact and organized bands, with arms in hand and provisions for the expedition, marched to our polls, and, when their work was done, returned whence they came. It is unnecessary to enter into the details, it is enough to say that in three districts, in which, by the most irrefragable evidence, there were not one hundred and fifty voters, most of whom refused to participate in the mockery of the elective franchise, these invaders polled over a thousand votes." *Ib.*, p. 90.

<sup>1</sup> "Certain it is that there could not have been a system of fraud and violence such as has been charged by the agents and supporters of the emigrant aid societies, unless the governor and judges of election were parties to it; and your committee are not prepared to assume a fact so disreputable to them, and so improbable upon the state of facts presented, without specific charges and direct proof. In the absence of all proof and probable truth, the charge that the Missourians had invaded the territory and controlled the congressional election by fraud and violence, was circulated throughout the free states, and made the basis of the most inflammatory appeals to all men opposed to the principles of the Kansas-Nebraska act to emigrate or to send emigrants to Kansas." *Senate Reports*, 34th Congr., 1st Sess., 1855-56. Vol. I., Nr. 24, p. 12.

<sup>2</sup> Mr. Washburn. I ask the gentleman from Missouri whether or not, from information that he has received, he believes that many in-

well founded.<sup>1</sup> The Missourians had not endeavored, or even wished, to cast a veil over their doings. The most characteristic thing in the whole affair was that the unheard of wrong was committed, although no illegalities were necessary in order to make the election of Whitfield, the candidate of the pro-slavery party, entirely sure.<sup>2</sup> This certainly does not exclude the assumption that the invasion was, in part, suggested by the idea that nothing should be left to chance, but it was unquestionably also instituted immediately to deter immigrants inimical to slavery from settling in the territory. The man who now came to Kansas did so at his own risk.

In the White House, the president was not so blind or short-sighted as to consider all these things desti-

dividuals have gone from Missouri to Kansas to vote at the election, who have since returned and now reside in Missouri?

"Mr. Oliver. I am not here to give credence to vague newspaper reports, nor will I believe them.

"Mr. Washburn. Then I understand the gentleman to say he does not believe the facts, as I have supposed them to exist.

"Mr. Oliver. I have no evidence of the fact.

"Mr. Washburne. I ask the gentleman from Missouri whether or not he believes the report. He has qualified his answer by saying that he has no evidence of its truth. I do not understand him as meaning to say that he does not believe it.

"Mr. Oliver. I have no evidence, and consequently do not believe it.

"Mr. Washburn. And consequently he does not believe it!" *Congr. Globe*, 2d Sess., 33d Congr., p. 51.

<sup>1</sup> Compare *Congr. Globe*, 2d Sess., 23rd Congr., App., 48.

<sup>2</sup> No one questioned that Whitfield had received the majority of the legal votes cast. The committee of investigation of the house of representatives reached the following results from the census and the poll lists. Number of qualified voters according to the census, 2005; votes cast, 2833; legal votes, 1114; illegal votes, 1720. The 7th election district had, according to the census, only 53 qualified voters and cast 604 votes; the 11th had 24 qualified voters and 24 ballots were found in the ballot-box. Reports of Committees, House of Representatives, 54th Congr., 1st Sess., Vol. 11., No. 200, p. 8.

tute of importance. If the annual message of the 4th of December, 1854, made no mention of the slavery question, that fact could not be interpreted to mean that the president and his cabinet believed that, in consequence of the fulfillment of the promises of peace, there was no occasion to say what they thought about it. There must have been some other reason for this silence, and every school boy knew what it was. The elections in the summer and fall, had had such results, that the administration had every reason to avoid all provocation; but it would neither surrender the position it had hitherto assumed, nor could it do so, without losing the good graces of the south and the Douglas Democrats, irrevocably. The people of the free states had already spoken so loudly that they could now do nothing but wait and be silent. The triumphs which the Democrats had celebrated two years ago were so brilliant that they acted as if an opposition which had seriously to be reckoned with no longer existed. And now a storm broke over them in the north, which it seemed would, in a single night, so to speak, transform their prond ship into a miserable wreck. The very first waves broke with such force over the deck that the feeling began to creep over them that a catastrophe was within the limits of possibility.<sup>1</sup> The leaders threw themselves with redoubled energy into the electoral campaign, but defeat followed defeat. Not only in Ohio and Indiana but also in New Jersey

<sup>1</sup> W. B. S. Moore, chairman of the committee on resolutions of the Democratic convention of Maine, in June, 1854, said: "We came into power eighteen months ago with an unprecedented majority in the nation; and in the state we had a great moral power—perhaps too much. Since then, changes have come over the aspect of and the prospect of the democracy. We have lost Maine, Rhode Island, Connecticut and it is nearly a drawn game in New Hampshire, that ought to stand firm as her granite hills." Harris, *Review of the Conflict in America*, p. 166.



and even in Illinois, were they driven from the field, or at least some of their positions wrested from them. In New York, Seward was re-elected to the senate, although it had been confidently hoped that peculiar circumstances would bring about the defeat of this most dreaded leader of the anti-slavery party, even if the election of an opposition candidate was undoubted.<sup>1</sup> In Michigan, the aged Cass himself travelled over the whole state and endeavored to convince the people that the Kansas-Nebraska bill was a result very important to liberty, but spite of his immense influence, the enemy achieved a great victory here too.<sup>2</sup> Iowa, hitherto a veritable hotbed of doughfaces now re-inforced the little band of "abolitionists" in the senate by Harlan,<sup>3</sup> and in Massachusetts the elections to the legislature were such that Henry Wilson was chosen as Sumner's colleague.<sup>4</sup> In no free state, could the adherents of the administration look with satisfaction at the result of the election, and the result, in the aggregate, was an almost unparalleled defeat. It was calculated that in the house of representatives of the next congress its present majority of 150 would sink to a minority of 75.

What did this sudden party revolution mean? Had a great light appeared in the heavens repeating the miracle of Damascus, in hundreds of thousands of cases, and was there no reason to fear that many a new Paul would be a Saul once more on the morrow, that is, could a direct conclusion as to the future be drawn from the magnitude of the defeat? On this depended the importance of the event,

<sup>1</sup> He was chosen by a majority of only six votes.

<sup>2</sup> Compare Congr. Globe, 2d Sess., 33d Congr., App. p. 40.

<sup>3</sup> James W. Grimes writes on the 13th of August, 1854: "Our southern friends have regarded Iowa as their northern stronghold. I thank God it is conquered." Pike, *First Blows of the Civil War* p. 260.

<sup>4</sup> On the peculiar circumstances which prevailed in Massachusetts, see the number of the *Independent* of February 15, 1855.



and the question could evidently be answered only on condition that the causes of that event were established with certainty. How difficult it was to do this, appeared from the fact that the second session of the 33d congress was, in great part, spent in the examination of that question. If the Democrats had only words and sophistry to produce in order to deceive themselves and others as to the weight of the blow, the debates could not have been spun out so long, and the victors would not have considered it worth the trouble, again and again to refute the allegations of their opponents, in the most exhaustive manner. The duration and warmth of the contest of themselves demonstrated that many and various causes must have co-operated to produce the result, the relative importance of which was estimated very differently, by the parties to the struggle, according to their whole political way of thinking and their interests. To some extent, however, the causes could not be ascertained with precision. A North Carolinian had, as Stephens relates, made the pun, that the administration had been hit on the head by General Malcontent, and, in this, there was, unquestionably, much truth.<sup>1</sup> But it was still more incontestible that very specific causes had done most to produce the effect in question, and of these, the chief one was that the Democrats had to do not only with their old enemies but with a new party which had joined them, and whose position on the controlling questions hitherto, was by no means definite and clear.

Like *ad us ex machina*, the Know Nothings had appeared

<sup>1</sup> The Hards, that is that fraction of the Democrats of New York who, in the Kansas question, had gone with the administration, approved this judgment emphatically. The state committee voted on the 25th of January 1855, a series of resolutions in which we find the following: "The only fact clearly established by the recent election in the state is that the national administration has entirely forfeited the confidence of all parties." The New York Hards and Softs, p. 66

on the stage. People first became aware of their existence by their victories. In January, 1854, at a municipal election in Salem, Massachusetts, men whom no one had publicly named as candidates, were elected by a large majority.<sup>1</sup> Soon after, the same thing happened in several other cities. Such unheard of proceedings could not fail immediately to attract public attention. When, in June, in Washington, and then even in Philadelphia, the old parties were overcome by their invisible opponents, it became manifest to all that they had to do not with a local *syndicat*, but that they were confronted by a secret organization which was extending with mysterious rapidity. The history of its origin and its creed remained for a long time involved in obscurity, and the former has not been fully cleared up, up to the present time. This much, however, was plain from the start, that its tendencies were decidedly nativist. It was not really anything new, but it took up anew ideas which previous attempts had shown were not calculated to furnish a basis for the formation of a genuine political party. It is, therefore, entirely probable that the Know Nothings, as one of their historians claims, were directly connected with those old nativist organizations.

The large number of immigrants and especially of Irish who, politically and in every other respect, belonged to the lowest stage of culture, as well as the masterly development which the spoils system had received through the Albany Regency, made New York a particularly favorable field for nativist agitation. Here, in 1842, the American Republican party, the successor of the native Americans, of 1834, was formed. Their programme<sup>2</sup> was confined

<sup>1</sup> Speech of V. L. Vallandigham in Dayton, Ohio, October 29, 1855, p. 12.

<sup>2</sup> See the programme in Whitney, *a Defence of the American Policy*, pp. 243-247.

mainly to two points: public offices should be filled only by native Americans and, naturalization should not be allowed, until after a sojourn of twenty-one years, in the country. Sectarian antipathy did not, at first, appear in the programme, but soon people began to speak stealthily of the special hostility of the party to Catholics, and said that it sought to exclude them from the political organizations.<sup>1</sup> In 1845, the party assumed the name of the Native American party. But as early as December 21, 1811, the order of United Americans<sup>2</sup> had been established in New York. Its chief aim also was to break the influence of the immigrants, but to this aim it united Masonic tendencies. Hence, ten years before the appearance on the scene of the Know Nothings, the idea had been formed and executed of taking the system and discipline of "orders" into the service of nativist party efforts, a system and discipline which, because of their secrecy, exercise so great an influence on Americans, and which may be turned to such effective account by the organization of the forces of the "orders," under skillful leadership, for purposes of propagandism. This first attempt must have had some success, for Whitney thinks himself warranted in claiming that the compromise of 1850 was the work of the order of United Americans.<sup>3</sup> The claim is of course wholly untenable, although it is very possible that the members of the order, as individuals, may have exercised an important influence; and it certainly cannot be doubted that their influence was exercised in the direction named. The order as such could not play any part in the matter, because it had no support in public opinion, a fact which undoubtedly appears from this, that the incitation to the

<sup>1</sup> *See* The Origin and Progress of the American Party, pp 200-203

<sup>2</sup> Whitney, *loc. cit.*, p 268.

<sup>3</sup> *Loc. cit.* p 277

formation of the Know Nothing party which dated back to the year before, remained still entirely without result. The idea began to ferment, only after a second effort in 1852, and, according to Whitney, it was owing to the efforts of some members of the order of United Americans that the movement now began to acquire some strength. What made them take up the idea of such an extension and transformation of their order, with so much zeal, was the consideration, that admission into the secret order of the Know Nothings did not cost anything and that, therefore, it would be much easier to draw the masses into it.

The energy and skill of these members of the older order in agitation would, however, have remained fruitless were it not that large circles of the people were open to new political ideas, because they no longer found satisfaction, in any respect, in the old parties. To this cause chiefly, the Know Nothings owed their surprising success. The masses joined them in vast numbers, not so much because they were honestly enthusiastic over the ideas of the Know-Nothings or because they saw in them the points about which the political life of the nation moved, as because, partly from fear and partly from disgust, they had turned away from the old, and hence grasped with impatient and uncritical zeal, the first new thing which struck a sympathetic chord in their political feeling and at the same time pleased their fancy. Curiosity, the pleasure felt in the mysterious and the charm which always attaches to surprising success now brought disciples daily to the new secret league, and soon the organization spread—especially in the free states—with the rapidity and irresistible force of a conflagration.<sup>1</sup> The thirteen persons who, as the

<sup>1</sup> In a message of J. W. Barker to the state council of New York, we read: "On the 11th of May, 1824, a consolidation was effected between two divisions of Americans professing the same principles, but acting

National Council, under the chairmanship of James W. Barker of New York, guided the movement had, in a day, become a power which transformed the inconsiderate arrogance of the victors of 1852 into anxious solicitude. The formal establishment of the constitution<sup>1</sup> of the party took place on the 17th of June, 1854, the anniversary of the battle of Bunker Hill, and as early as the beginning of 1855, the Democrats asked themselves whether, within three years, they would not be a minority in the senate as they would be in the next session of the house of representatives.<sup>2</sup> However, the hitherto unparalleled victorious course of the party was not decisive of the question, whether there was really any occasion for such fears. If the turning point in the political life of the Union actually lay in some other direction, and if the programme of the Know Nothings was not viable, because it had no real political and moral justification, they would have to vanish from the stage as suddenly as they had appeared upon it. In the life of nations, there are episodes which partake of the character of intoxication, or of a sudden fit; but in a modern civilized state, it is never possible lastingly and arbi-

under the respective names of lodges and councils; the two then numbered about sixty subordinate bodies. . . . The whole strength of the order in the state, on the 11th of May, 1854, did not probably exceed five thousand, and in the United States there were not more than ten thousand members. . . . The present harmonious and prosperous condition of the nine hundred and sixty councils in the state of New York etc." *The Independent*, March 15, 1855.

<sup>1</sup> Mazuire, *The Irish in America*, p. 446. The constitution, general rules and regulations are printed in Hambleton, *A History of the Political Campaign in Virginia, in 1855*, pp. 47-54.

<sup>2</sup> In a speech delivered on the 3d of February, 1855, in Alexandria, Henry A. Wise said: "They have swept the north. They have nine governors. They claim that they have got a majority elected to the next house of representatives. They are now trying to obtain by the end of the next three years a majority in the senate of the United States." Hambleton, *loc. cit.*, p. 144.

trarily to supplant the cardinal problems of its political life which have their roots in actual circumstances by secondary and more or less artificial, not to say fabricated, questions.

The considerations and feelings which served as a foundation to the wish to exclude adopted citizens from political offices, and in the future to grant immigrants the right of citizenship only after a very long stay in the country are obvious; and it has been already examined to what extent it must be acknowledged that they were justified. The character of the question, however, was now materially modified by its amalgamation, in principle, with the proscription of Catholics. The Know Nothings not only showed greater hostility to Catholic immigrants than to Protestant immigrants, but they extended political proscription to all Catholics. So far as public offices were concerned, native Catholics were placed on the same footing as immigrants.<sup>1</sup> How was it sought to explain and

<sup>1</sup> Article 8 of the constitution read: "The object of this organization shall be to resist the insidious policy of the Church of Rome, and her influence against the institutions of our country, by placing in all offices, in the gift of the people, or by appointment, none but native-born Protestant citizens." And in Article 3 on the requirements which had to be fulfilled to be a "member of any subordinate council" we read: "He must be a native-born citizen, a Protestant, born of Protestant parents, reared under Protestant influence and not united in marriage with a Roman Catholic." Thus, according to Maguire, *The Irish in America*, pp. 446, 447. I cannot guarantee the correctness of this quotation. The constitutions and platforms of the Know Nothings which I have seen vary greatly from one another, not only in their wording but in their contents. I do not know whether any one of these wordings was publicly recognized by the party as authentic. It does not, however, appear to me to be probable, as the constitution and the platform continued to be officially and to the last a secret which could have been communicated to the uninitiated only by betrayal. But it is not impossible that the subsequent disclosures were caused by the secretaries or the officers themselves to show that it was not, after all, as black as it was painted. And so the supposition is not absolutely



justify this? Of a resuscitation of Puritanical fanaticism, there was nothing else to be noticed, and the Know Nothings expressly protested that they did not wish to proscribe Catholicism as a religion. Their declaration of war, they said, was not directed against the faith but against the church which because of its hierarchical tendencies was the greatest danger which menaced the independence and freedom of the people. Was that only a pretext to give nativist tendencies a powerful impulse, or were fears really entertained in the direction mentioned, and were these fears well grounded? That to a certain extent, one thing was said and another meant was unquestionable. If European immigration had not, to a great extent consisted of Catholics, the idea would never have occurred to Americans, to make the combatting of Catholicism a party question, for the Catholics who had been in the country from the early days of the republic, constituted only a small fraction of the population and had never given cause for complaint, in this respect. It was only through immigration that the Catholic church, in the United States, became so strong that it might be tempted to assert itself as a power in the state. The number of Catholics was certainly not yet so large that the fundamentally Protestant character which American national life had thus far borne could be imperilled by it; but their number was so large that it had to be reckoned with, in case they engaged in the struggle of political parties, as a solid mass; and the majority of Catholics, in the country, stood on such a plane of culture and their antecedent circumstances had been such, that it was very natural the question should be raised, whether

excluded that all the different wordings are authentic, for it is certain that the creed of the party was modified under the pressure of public opinion and showed a wonderful capacity to adapt itself to local circumstances.



the Catholic clergy, if they took the matter skillfully in hand, and pursued it with persistent energy, would not succeed in misusing their power for the furtherance of their ecclesiastical purposes. Thus far, this had certainly not been attempted, but, notwithstanding, the fears of the Know-Nothings could not be said to have no positive basis. If the future showed that they had seen spectres in the full light of day, these spectres were surely not the outgrowth of their own excited fancy, but spectres conjured up by the chiefs of the Catholic camp, who pointed them out to the American people as the spirit of the future.

For a long series of years, a part of the Catholic press had embraced the most extreme Ultramontaniam, and, with the utmost and most inconsiderate frankness, advocated the most radical hierarchical doctrines. But the responsible heads of the church, responsible by their calling, had not only never opposed the idle endeavors of the Catholic press, but had repeatedly, and publicly, expressed their approbation of the volunteers of the church militant. As early as in July, 1852, the *Freeman's Journal* had asserted that the Catholic church was the only conservative power which could oppose the destructive tendencies of the times, and claimed that this fact and its consequences would appear more plainly every day.<sup>1</sup> If this were a fact, the

<sup>1</sup> "Our country has started forth with a beautiful fabric of institutions, and political framework. We have lived to see the existence of these threatened, and to hear grave men predict their speedy fall. We have lived to see desperate corruption in our leading statesmen and headless, reckless passion swaying the crowds that give statesmen their popularity. But it is at this moment that the Catholic church is called on by the view of the present and philosophers, but to the consciousness of all who have eyes, stands forth as we have said the only living organization which professes to guide from a principle above the interests of the hour, by the millions of souls in her grasp and fearlessly directs them, and with unerring aim to the course that high duty and the true good of the country demands. . . . The great

days of freedom in the United States were, indeed, numbered, provided faith could be attached to what other Catholic papers said of the nature and endeavors of the Catholic church. The *Shepherd of the Valley*, a paper published in Saint Louis, asserted that, by its very nature, the church was intolerant, and added that it would be all over with freedom in the United States, the moment Catholics had the power to destroy it.<sup>1</sup> The *Rambler* approved this view, went further and said that if the pope became lord of the country, he would allow himself to be governed only by considerations of expediency which might induce him, according to circumstances, to tolerate heretics or to hang them.<sup>2</sup>

The Catholic clergy of course questioned the right of the Know Nothings to appeal to declarations of this nature, since the church could not be held responsible for what every zealot in his ignorance might write. But there

conservative and living principles of our civil and political institutions are henceforth to be identified peculiarly with the Catholic church and its friends. Every year that rolls by will make this fact more clear, and will develop its consequences more fully." Cited by Whitney, *A Defence of the American Policy*, p. 82.

<sup>1</sup> "The church is of necessity intolerant. Heresy she endures when and where she must, but she hates it, and directs all her energies to its destruction. If Catholics ever gain an immense numerical majority, religious freedom in this country is at an end. So our enemies say. So we believe." *The Shepherd of the Valley*, Nov. 23, 1851.

<sup>2</sup> "You ask if he, the pope, were lord in the land and you were in a minority if not in number, yet in power, what would he do to you? That we say would depend entirely on circumstances. If it would benefit the cause of Catholicism he would tolerate you if expedient, he would imprison you, banish you, fine you; possibly hang you; but be assured of one thing, he would never tolerate you for the sake of the 'glorious principles' of civil and religious liberty." Cuskey, *The Political Text Book*, p. 307. In the same work, pp. 304-308, in No. 10 of the so-called "Madison Letters" which were written by a Virginian in defence of the Know Nothings, a number of similar provocations may be read.

can be no question that the Catholic clergy must be held responsible morally to a certain extent, since it would have cost the authorities of the church only a word to check the thoughtless zeal of such fanaticism or ambition. That they did not speak that word, was neither because they did not have the legal, ecclesiastical power to command, nor because they had paid no attention to the matter, but for the reason that it seemed to them the interests of the church called for no such interference, on their part. The authorities of the Catholic church themselves were industriously discreet, but, to say the least, they felt no great displeasure that Ultramontanisin, in its extreme form, was preached by volunteers for whose action no official responsibility rested on them. This appears with undoubted certainty from the fact, that Brownson's Review, the most vigorous, enlightened and influential Catholic organ of the country had received the most formal recommendation of twenty-five archbishops and bishops, to the end of promoting its further circulation among the people. But Brownson's Review ostentatiously assumed the position of mediæval times, at the period when the papacy was at the height of its power. In the plainest words, it asserted the right of the church to summon the possessors of temporal power before its tribunal and to execute its judgments upon them.<sup>1</sup> And it was very

<sup>1</sup> "She (the church) has the right to judge who has or who has not, according to the law of God the right to reign: whether the prince has, by his infidelity, his misdeeds, his tyranny and oppression, forfeited his trust and lost his right to the allegiance of his subjects, and therefore whether they are still held to their allegiance, or released from it by the law of God. If she have the right to judge, she has the right to pronounce judgment, and order its execution: therefore, to pronounce a sentence of deposition upon the prince who has forfeited his right to reign, and to declare his subjects absolved from the allegiance to him, and free to elect themselves a new sovereign." Brownson's Review, January, 1855, p. 301.

far from making an exception in favor of the United States. Ten years before, it had announced that the pope was endeavoring "to possess" the country and declared that the entire clergy of the church, if they were true to their faith, would have to aid him in doing so. It at the same time alleged that democracy was a dream wherever the Catholic church did not prevail and teach obedience,<sup>1</sup> and, in its opinion, the Catholic duty of obedience to the church was simply unbounded.<sup>2</sup> The practical consequence which it inferred, logically and correctly, from these principles was that it was the exclusive right of the church to draw the line between its own jurisdiction and that of the state, and that the person who did not recognize this had ceased to be a Catholic.<sup>3</sup>

In the same year, the *Freeman's Journal* writes: "The pope of Rome has supreme authority over every square foot of surface on this globe. His rights are circumscribed only by the ends of the earth and the consummation of ages." This declaration deserves all the more to be cited side by side with that made by Brownson, because the *Freeman's Journal* was considered the organ of archbishop Hughes of New York. Congr. Globe, 1st Sess., 34th Congr., Append., p. 669.

<sup>1</sup> "In point of fact, democracy is a mischievous dream, wherever the Catholic church does not predominate, to inspire the people with reverence, and to teach and accustom them to obedience to authority. The first lesson for all to learn, the last that should be forgotten is to obey. You can have no government where there is no obedience; and obedience to law, as it is called, will not be long enforced where the fatality of law is clearly seen and freely admitted. But is it the intention of the pope to possess this country? Undoubtedly. In this intention is he aided by the Jesuits, and all the Catholic prelates and priests? Undoubtedly, if they are faithful to their religion." Brownson's Review, April, 1845.

<sup>2</sup> In another article we read: "If the church should direct the Catholic citizens of this American republic to abolish the constitution, the liberty and the very existence of their country, as a sovereign state, and transfer it to the crown of Louis Napoleon Bonaparte, they are bound by a divine ordinance, to obey." Cited by Fulton, *The Outlook of Freedom*, pp. 291, 292.

<sup>3</sup> "If they had been distinctly taught, that the political authority is

If one only considered the immense majority the non-Catholics had, and how glaringly their traditions, views, customs and institutions contrasted with these doctrines, he must have felt tempted to turn his back, with a smile of pity at such poor, deluded enthusiasts, without replying a word to them. But if one called to mind the political history of the Catholic church in Europe, and realized its rapid growth in the United States, during the last fifty years,<sup>1</sup> even cool political heads, whose blood was not easily disturbed by words, might be startled, and ask themselves whether the method in this madness did not deserve attention. And the necessity of becoming clear on this point, and of finding a definite and satisfactory answer to the question was, indeed, incontestable; for the Catholic church labored with masterly skill, bee-like industry, undisturbed tenacity and alarming success to lay

always subordinate to the spiritual and had grown up in the doctrine that the nation is not competent to define, in relation to the ecclesiastical power its own right—that the church defines both its powers and her own, and that though the nation may be, and ought to be independent, in relation to other nations, it has and can have no independence in the face of the church—the kingdom of God on earth, they would have seen at a glance, that to support the civil authority against the spiritual no matter in what manner, was the renunciation of their faith as Catholics, and the actual or virtual assertion of the supremacy of the temporal power." *Brownson's Review*, January, 1853. (Cluskey, *The Political Text Book* p. 329)

<sup>1</sup> Whitney, *A Defence of the American Policy*, p. 115, gives the following statistical data for the years:

	1808.	1855.
Dioceses .....	1	41
Bishops .....	3	40
Archbishops .....	—	7
Priests .....	69	1704
Churches .....	80	1824
Mission Stations .....	—	678
Ecclesiastical Institutions.....	3	37
Colleges .....	1	21
Female Academies.....	3	117

the foundation deep and broad of its hierarchical structure in domains which had nothing to do with party politics, but which were of cardinal importance to the national life.

Its attention was directed chiefly to the two points on which the Catholic church has always laid the greatest stress: the control of the schools and the acquisition of a large property.

New York was, and is still, the centre of the power of the Catholic church in the United States, not only because Catholics are most numerous represented in that state, but because the Irish vote is wont to be the main pillar upon which the power of the government of the city of New York rests, and the latter, therefore, inclines to regard the desires of Catholics as far as it possibly can. Hence, it was in New York that the first great and persistent effort was made, in the interest of the Catholic church, to make a breach in the system of the common schools which without exaggeration, may be called one of the most essential supports of American democracy with its capacity for rational freedom and self-government. Under the leadership of archbishop Hughes, the Catholics, in 1840, demanded the full control of "their share" of the school fund to the end, that Catholic children might, in their own schools, receive an education in harmony with the wishes of their parents, and one which might satisfy their religious wants. Among the special reasons assigned for this claim, the use of certain school books which must have been offensive to faithful Catholics and the daily reading of the Bible occupied the chief place. The city government endeavored to pacify the Catholics by a species of compromise, by abolishing the reading of the Bible in those schools in which it was most strongly objected to. This only made the matter worse. The Catho-



lica now declared it to be an unheard of injustice, that they were required to support schools to which they could not send their children, because God had been banished from them. Nor did they rest satisfied with words, since, as the organ of the archbishop frankly said, this question was of decisive importance to the future of the church.<sup>1</sup> As they were not able to succeed with the city government and the school board,<sup>2</sup> they turned to the legislature, and met with no unfriendly reception from governor Seward. As early as January 7, 1840, he had called attention, in his annual message, to the fact that, in the larger cities and towns, a great many children of immigrants grew up without any education, and he proposed, by the establishment of schools in which teachers of the same nationality and religious creed gave instruction, to induce them to attend school.<sup>3</sup> This proposal was very badly received in the Protestant camp, and caused the governor to be severely criticised. But Seward did not allow himself to be disturbed. In his annual messages of January 5, 1841, and January 5, 1842, he entered into

<sup>1</sup> "This subject contains in it the whole question of the progress and triumphs of the Catholic church in the next generation in this country. Catholics let us all act together." *The Freeman's Journal*. Cited by Fulton, *The Outlook of Freedom* p. 234.

<sup>2</sup> The question was complicated by the fact that the city of New York occupied an exceptional place in respect to its school system, in the state, because its right of self-determination had much narrower limits than that of all other communities. On this see Seward's Works, pp. 306, 308.

<sup>3</sup> "The children of foreigners, found in great numbers in our populous cities and towns and in the vicinity of our public works are too often deprived of the advantages of our system of public education, in consequence of prejudices arising from difference of language or religion. It ought never to be forgotten that the public welfare is as deeply concerned in their education as in that of our own children. I do not hesitate therefore, to recommend the establishment of schools in which they may be instructed by teachers speaking the same lan-



an exhaustive discussion of the question<sup>1</sup> and refuted the objection that he was favoring sectarianism and wanted to sacrifice the general system of creedless free schools to a contentious, sectarian spirit. The schools, he said, must correspond to the wants of society and, therefore, be adapted to its actual needs, for the schools existed for the sake of the community and not the community for the schools. But it was a vital interest of the community, that all its members should partake of the blessings of school instruction. As, under the existing system, this was not the case, there was need of a reform, and it was worthy of consideration that one of the reasons for the lamentable condition of things which prevailed, was the deep-rooted distrust of the Catholics in the spirit governing the public schools.<sup>2</sup> The conviction soon forced itself upon people, that the children growing up without any instruction and who already numbered 20,000 in New York, were a great danger to the state. But it was believed that this bad state of affairs, was referable, to a very great extent, to other causes entirely, on which Seward himself had laid much more stress in his last message than on the grievances of Catholics dictated by

guage with themselves and professing the same faith. There would be no inequality in such a measure since it happens from the force of circumstances if not from choice that the responsibilities of education are in most instances confided by us to native citizens, and occasions seldom offer for a trial of our magnanimity by committing that trust to persons differing from ourselves in language or religion." *Ib.*, II., p. 215.

<sup>1</sup> *Ib.*, pp. 278-281, and 306-309.

<sup>2</sup> "What has been regarded as individual, occasional and accidental prejudices have proved to be opinions pervading a large mass, including at least one religious communion equally with all others entitled to civil tolerance—opinions cherished through a period of sixteen years, and ripened into a permanent distrust of the impartiality of the education given in the public schools." *Ib.*, II., p. 306.

sectarian considerations. Hence from the necessity of reform, the necessity of acting on the first proposition of the governor, by no means followed. He had not himself directly claimed, to say nothing of his having attempted to prove, that these grievances of the Catholics were well founded. And just as little had he guaranteed that the Catholics would be pacified by this altogether too vague a proposal of a remedy. Their demands went much farther, and the nature of these demands strongly suggested the suspicion, that their main motive was the interest of the power of the church. Their chief concern was not, as it was Seward's, that their children were growing up without any education whatever. This they expressed with very commendable frankness and emphasis,<sup>1</sup> and they acted in accordance with what they said, to the ex-

<sup>1</sup> *The Freeman's Journal* wrote: "What we Catholics must do, and must do now, is, first to get our children out of this devouring fire. At any cost, and at any sacrifice, we must deliver the children, over whom we have control, from these pits of destruction, which lie invitingly in their way, in the name of public or private schools. We must wherever there are enough Catholics together to render it possible, organize Catholic schools. Where this is impossible, let parents withdraw their children from these places, where they are certain to learn evil, and probably very little but evil, and if they cannot have them taught elsewhere, let them be sent to honest labor, or kept from the ways of the destroyer, under the parents' eyes. This withdrawal of Catholic children, everywhere, from the Godless schools, should be their first step. It is lamentable that it has not long ago been taken." *Fulton, The Outlook of Freedom*, p. 254.

In the Catholic camp there were people, too, who seemed to consider it desirable, under all circumstances, that the great multitude should be kept away from the schools. *The Shepherd of the Valley* wrote on the 22d of October, 1853: "We think the 'masses' were never less happy, less respectable, and less respected than they have been since the reformation, and particularly within the last fifty or one hundred years, since Lord Brougham caught the mania of teaching them to read, and communicated the disease to a large portion of the English nation, of which, in spite of all our talk, we are too often the servile imitators."

tent that the watchword given them by the priests was a law unto them. Hence it was entirely justifiable and proper to recall here the maxim, *principiis obsta*, and to reflect, whether a concession should be made to them which they would unquestionably endeavor to use as an entrenchment in besieging the stronghold of the common school system. Under any circumstances, an effort should first have been made to discover what could be accomplished in some other way, and, on no condition, should the demand inspired by the clergy have been granted. This was absolutely unpermissible, for the reason that if granted, it would then be necessary to give every other church and sect, when it demanded it, its "share" of the school fund, and thus the schools<sup>2</sup> would have been completely handed over to the sovereign good will of the different religious bodies, in other words, to the clergy of all denominations.<sup>3</sup>

The Catholic clergy had overshot the mark. The importance of the question was fully estimated and the non-Catholics stood unanimously together. The attack was happily repelled and the result has shown that there was no need of a division of the school fund and of the destruction of the common school system in order to allow Catholic children to participate in the blessings of school instruction. But the Catholic church has from time immemorial proved that it can wait and knows how to

<sup>3</sup> In a report of a committee of the legislature on the petition of the Catholics we read: "Grant the prayer of these petitioners and a flood-gate of ruin is opened upon our common school system, which future legislatures could hardly be able to restrain, for under our system of religious toleration no resting place would be found, until our magnificent school fund was subdivided among every denomination in the state from the ancient and venerable establishment of the Roman Catholic church down to the conventicles of the spiritual mediums of these latter years." Fulton, loc. cit., p. 261.

wait. Its wishes in respect to this question were still what they had been, and therefore the possibility that it would take it up again, on a favorable opportunity, was not excluded. Hence when the Know Nothings recalled this struggle about the schools in New York, their mouths could not be closed by saying to them: let the dead bury the dead.<sup>1</sup>

The contest over the question, in whose name the title of ecclesiastical property should be placed had a more satisfactory issue for the church. A law of the state of New York of the year 1784, on the incorporation of religious bodies, provided that trustees chosen by the church, congregation or society should represent it in this respect. This course did not serve the interests of the Catholic clergy, and as they consider themselves identical with the church, it is their unalterable principle to make whatever their interests demand a part of the law of the church. As soon as they felt themselves strong enough for it, and when, with the growth of the church, the property of the church likewise so grew that the question became one of the most extreme importance to their prestige, they began to labor to have the direct and exclusive control of church property confided to themselves. At first, they only mentioned their wishes, but these wishes of theirs were soon clothed in forms which gave them the appearance of menacing commands. A declaration of the bishops assembled in Baltimore, on the 1st of October, 1829, expressed the desire that, in the future, no church might be built or consecrated, unless it was assigned by a written instrument

<sup>1</sup>Fulton says that in the spring of 1852, the Catholics "in secret conclave at Baltimore," had resolved to make an attack in the entire Union on the system of public schools, but that it succeeded only in California. In what this attack consisted and how it was executed, he does not say. *Ib.* p. 233.

to the bishop, and this demand was accompanied by a severe denunciation of the legal trustees.<sup>1</sup> This declaration was approved on the 16th of October, 1830, by Gregory XVI., but the congregations did not intend to allow their legal rights to be decreed away without any more ado by the bishops. The provincial council held in Baltimore, in 1840, went a great step beyond the declaration of 1829. The fourth article of the decree passed by it, curtly provided that all church property acquired by donations or offerings, unless conveyed by writing to an order of monks or congregation of priests, should belong to the bishop of the diocese.<sup>2</sup>

The Catholic bishops of the United States therefore, assumed, without any previous consultation with the state authorities, the right to nullify a constitutional law of the state of New York, and to pass another law in its place. The state, however, saw no occasion to oppose them in any way. Some of the congregations, on the other hand, did not allow this bold wrong to be passed over in silence. The congregation of the church of Saint Louis in Buffalo especially met it with the most energetic resistance. But the bishop was firm. When he became convinced that the congregation was fully in earnest, in its resistance, he

<sup>1</sup> "Whereas lay trustees have frequently abused the right granted to them by the civil authority, to the great detriment of religion and scandal of the faithful, we must earnestly desire, that in future no church be erected or consecrated unless it be assigned by a written instrument to the bishop in whose diocese it is to be erected for the divine worship and use of the faithful, whenever this can be done." *Ib.* p. 271.

<sup>2</sup> "The fathers ordain that all churches, and all other ecclesiastical property which have been acquired by donations or the offerings of the faithful, for religious or charitable use, belong to the bishop of the diocese, unless it shall be made to appear and to be confirmed by writings that it was granted to some religious order of monks, or to some congregation of priests for their use." *I. c.*

did not consider it expedient to hold unconditionally to the decree of the provincial council, but all he would agree to was to leave the church property in the care of trustees, provided they were named by himself. The congregation repelled this pretension also. The controversy grew more and more bitter, and was finally brought before the pope who confided the settlement of the affair to Cardinal Basini, the nuncio destined for Brazil, as, on account of the principle involved, it was of sufficient importance to make it appear expedient to employ so extraordinary an agency for the preservation of the interest of the hierarchy.

A papal nuncio, even if he came in no official character, was too surprising a phenomenon, in the United States, for the Roman church to take a step of that kind, without first assuring itself, what attitude the federal government would assume towards such a visitor. The American chargé d'affaires, in reply to the papal secretary of state, answered that Basini would be welcome and would be treated with the distinction becoming his rank. Thereupon, Basini came at the end of 1853, brought to the president an autograph letter of the pope, and was received in the kindest manner. There was a peculiar humor in the fact, that the federal government placed a United States ship at the disposal of the Roman prelate, who had come over to the country to sit in judgment in a conflict between episcopal assumption and a law of the state of New York—and who, as was to be expected, decided in favor of the bishop—to travel the great lakes, a journey which he, of course, desired to make only for his own personal pleasure and information. To have considered him as a private person, simply because he bore no diplomatic character, in the United States would have been altogether too ingenuous. Not only as regards the Buffalo question,



but everywhere and in respect to all church questions, he was the actual representative of the pope. Not only did he himself never and nowhere forget this, but the people did not ignore it. And besides, the people recalled the part he had played, after the suppression of the revolution in Bologna, and expressed their judgment on it when they simply styled him Ugo Bassi's executioner. The demonstrative kindness of the federal government provoked counter-demonstrations. In Cincinnati, Baltimore and New York, tumultuous scenes were enacted, in which the Protestant populace manifested their feeling in so forcible a manner that his departure from the United States could not seem hard to the prelate. He was enough of the man of the world too in his intercourse with official America to pass lightly over these hateful proceedings, and this was appropriately recognized, when men like Cass bitterly complained in congress, that Americans could forget themselves so far.<sup>1</sup>

The nuncio had been shown to the door of the country, by the populace, in the roughest manner, but nothing had been accomplished in respect to the most urgent and most important question. The insults which the representative of the Holy Father had been obliged to submit to were very far from terrifying the clergy, and moving them to gentler action in the controversy on the administration of ecclesiastical property. The trustees of the church of Saint Louis, despite the decree of the nuncio, continued to maintain their legal position. The possibility of an amicable settlement of the controversy had disappeared and in accordance with a decree of the provincial council of Baltimore, of 1852,<sup>2</sup> the church hurled its spiritual lightning against

<sup>1</sup> See on Bedini's visit to the United States, Congr. Globe, 1st Sess., 34th Congr., pp. 172-173.

<sup>2</sup> "Whereas the things given to God for the use of divine worship



the refractory. The latter however did not keep humbly quiet under their sentence, but in a petition to the legislature complained that the penalty of excommunication had been pronounced upon them because of their fidelity to the laws.<sup>1</sup> The legislature could not hide from itself the importance of the question, and this all the more, as the church of Saint Louis, in Buffalo, was by no means alone in the opposition to the pretensions of the clergy,<sup>2</sup> and besides the church property already directly under the control of the archbishop of New York had reached an

and works of charity come under control of the church, whose duty it is to see that the pious will of the donors be faithfully executed and whereas the sacred canons have often defended them against the usurpations of laymen, we strictly forbid the interference of laymen in the administration of those things, without the free consent of the bishops. Hence not called to this by the bishop they usurp them, convert them to their own use, or whatsoever manner they may be, frustrate or defraud the will of the donors, or if they try to wrest out of the bishop's hands the things committed to his trust and care, even by the means of the laws, we define and declare that they fall *ipso facto*, under the punishment inflicted by the Fathers in the Council of Trent on the usurpers of ecclesiastical property." Congr. Globe, 1st Sess., 34th Congr., App., p. 968.

<sup>1</sup> We read in the petition: "For no higher offence than simply refusing the Trust Law of our state, we have been subjected to the miseries of excommunication, and have had our names held up to infamy and reproach. For this cause, too have the entire congregation been placed under ban. To our members the holy rites of baptism and burial have been denied. The marriage sacrament is refused. The priest is refused to minister at our altars. In sickness, and at the hour of death, the holy consolations of religion are withheld."

"We yield to none in attachment to our religion, and cheerfully render to the bishop that obedience in spiritual matters which the just interpretation of our faith may require but in respect to the temporalities of our church we claim the right of obeying the laws of the state, whose protection we enjoy." Fulton, *The Outlook of Freedom*, p. 280.

<sup>2</sup> J. D. Putnam said in 1853, in the senate in New York: "Not in the church of Buffalo alone is found this spirit of protest against the absolute claims of the clergy. The church of St. Peter's, or Rochester,

enormous amount.<sup>1</sup> The clergy had again, as in the school question, overstrained the bow. In January, 1855, J. D. Putnam introduced a bill into the senate which not only retained the most material provision of the law of 1783,<sup>2</sup> but which opposed the episcopal claims by a supplementary clause of great importance.<sup>3</sup> The bill became a law and the hierarchical assumptions of the Catholic clergy were again happily defeated. The bishops however, did not on that account despair of their final victory, but from this experience only drew the conclusion, that they had not gone to work in the right way. And this view of the situation of the matter proved entirely well founded. Eight years afterwards, the struggle over the administration of church property, begun thirty-four years

is in the same controversy; and in other congregations, I understand, in the cities of Troy and New York, in Cincinnati, in Louisville, in Detroit, in deed all over the country, either covertly, or openly are to be found in the Catholic mind, the workings of the republican leaven." *Ib.*, p. 282

<sup>1</sup> Senator Brooks of New York claimed that it amounted to \$25,000, and Archbishop Hughes declared this to be a gross exaggeration, but Brooks produced proof of the correctness of his allegation from official documents. *Congr. Globe*, 1st Sess., 34th Congr., App., p. 968.

<sup>2</sup> Putnam himself said of the bill: "The bill introduced seeks uniformity in the tenure of church property. . . . It simply provides for the vesting of the title of land dedicated to religious uses, in trustees of the congregation enjoying the same, in accordance with a law and policy of the state which are almost co-existent with its incorporation into the Federal Union." *Fulton*, 1 c., p. 374. "The great end to be attained by this bill is to divest the clergy of the power of control over church temporalities." *Ib.*, p. 295.

<sup>3</sup> That bill simply reiterates the ancient law of 1783, with the addition that any bishop holding property of a congregation, and not having prior to his death, placed it in the hands of trustees, that property passes, at his death, from his estate and becomes the property of the state, to be held in trust for the congregation, and returned to them the moment they should elect trustees in conformity with the laws." *Congr. Globe*, 1st Sess., 34th Congr., App., p. 968.

before, ended, in the main, in a triumph of the bishops.<sup>1</sup>

The *Freeman's Journal*, the organ of archbishop Hughes, already repeatedly mentioned, had once, in the years of the struggle, called attention to the fact, that the time would come when the politicians would make an offer for the Irish vote which was daily increasing in importance, and, at the same time, announced with self-conscious boldness, that then there would be no hesitation to name the price for which it could be bought.<sup>2</sup> Perhaps the Catholic clergy overestimated their influence and power when they looked upon the Irish vote as a commodity which was entirely at their disposal. If they ventured to make the trial, it might become evident that even the Irish had not been willing or able fully to escape the effects of the republican leaven. But declarations of this kind showed to what extremes, at least a part of the Catholic clergy thought they could go, and if one could believe their own words, were willing, under certain circumstances, to go. And when it was called to mind what power the champions of the hierarchical cause had been able to summon together, in previous struggles, and what success they had already achieved, it certainly could not be denied that there was reason enough for people to keep their eyes wide open.

Spite of the immense preponderance of non-Catholics, it was fully justifiable to sound an alarm through the land,

<sup>1</sup> On the law of 1863, see Tyler, *American Ecclesiastical Law*, pp. 77-80 and especially p. 111, § 142.

<sup>2</sup> "Year by year, the Irish are becoming more powerful in America. At length the propitious moment will come—some accidental, sudden collision and a presidential campaign close at hand. We will then use the very profligacy of our politicians for our purposes. They will want to buy the Irish vote, and we will tell them for how much they can buy it in a lump from Maine to California." *Congr. Globe*, 1st sess., 24th Congr., App., p. 969.

but it by no means followed from this, that the anti-Catholic programme of the Know Nothings was to be approved. The Democratic executive committee of Virginia rightly said that even the more powerful than heroic remedy, would not be able to protect Protestantism, if it was not able, with such a preponderance, to insure its safety, in some other way.<sup>1</sup> And the means with which the Know Nothings sought to meet the real or supposed dangers not only proved ineffectual, but, from every point of view, they were to be unconditionally condemned. The constitution of the United States forbade congress to prohibit the free exercise of a religion,<sup>2</sup> and further expressly provided that the capacity to fill a federal office should not be made to depend on the profession of any religious creed.<sup>3</sup> When the Know Nothings wished to exclude the Catholics from all public offices, they unquestionably sinned against the spirit of the constitution, for even if the legal scope

<sup>1</sup> "For every Roman Catholic priest in the United States, there are some 25 Protestant preachers; for every Catholic altar, there are 30 Protestant pulpits. Scarcely one twentieth part of the population of the Union is attached to the Roman Catholic religion. If Protestantism is not safe with these heavy odds in its favor, its ascendancy will not be maintained by persecutions and civil disabilities imposed upon its opponents." Cited by Hambleton, *A History of the Political Campaign in Virginia*, p. 126.

<sup>2</sup> The first amendment reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

<sup>3</sup> "No religious test shall ever be required as a qualification to any office or public trust under the United States." Art. VI., Clause 3. There is no doubt that the expression "religious test" should be understood as a technical term and in the sense of the English test act. But it is just as undoubted that the provision had a higher and more general aim, namely, to cut off forever every pretense of any alliance between church and state, in the national government. Commentaries, II, 569 *q.* 1847. On the attitude of the individual states and colonies on this question, see Kent's Commentaries, Lecture, XXIV., Vol. I., pp. 653-654 of the edition of 1897.

of those provisions was only a limited one, they nevertheless evidently had sprung from the conviction that political and ecclesiastical-religious affairs had to be kept entirely separate. Taken in the broader sense, the two clauses of the constitution were in perfect harmony with actual circumstances and gave the most correct expression to the spirit of the people. Hence the Know Nothings not only sinned against the spirit of the constitution, but in equal measure against the spirit of the people likewise, and they besides trampled the first demands of justice under foot. Because the curia and the clergy, with the assent and support of a part of the Catholics, pursued certain aims the realization of which was not to be suffered, the Know Nothings were not morally justified in disfranchising all Catholics, in a very important respect. This was such a crying and obvious injustice that the Know Nothings subsequently endeavored to shield themselves, by saying that they intended to proscribe the "Roman" Catholics, that is Catholics with Ultramontane tendencies. Their constitutions and secret articles, however, knew nothing of this distinction, and with good reason, for, since a part of the Catholics was not organized as an Ultramontane party, it would have first to be ascertained, in every doubtful case, whether a person was only a faithful Catholic or an Ultramontane, and in this way, one half of the foundation on which the party was to be organized would have been broken into numberless fragments, entirely useless for the intended object. A viable political party can be formed only on a positive basis. This the Know Nothings did not have, as they only wished to avert certain hierarchical-Ultramontane tendencies, and they sought to find a substitute for such a positive basis, by making for themselves a tangible opponent, by unwarranted generalization, inasmuch as in the face of the facts,

they treated Catholicism and Ultramontaniam as identical. This they undoubtedly did, spite of all their protests, for thus alone could they justify their party principle, to cast their votes only for Protestant candidates. Their appeal to their undoubted right to vote for whom they wished, availed them nothing. The limitation on principle of the candidates whom they would support to members of the Protestant churches was practically the political proscription of other religious creeds, and the religious "test" expressly prohibited by the constitution was thus smuggled into the political life of the Union. But if the principle were violated in one place, it could not but be violated at other points. If the Protestants could proscribe Catholics, why not Catholics Protestants? And if the Protestants began by proscribing Catholics, might they not soon feel tempted to put the Jews and free-thinkers in the same category with them? And who was there to guarantee that the various Protestant churches would not turn against one another, as they had in previous centuries? If accidental circumstances favored it, the world might yet see even in the country in which the separation of church and state had been carried further than in any other and in which absolute religious liberty legally prevailed, religious belief become the basis of party struggles, to a greater extent than in European states, perniciously bound to the past. Absurd as this may seem at first glance, these were incontestably not only logical but very real possibilities, for it must be noted that it was not individuals as individuals who declared that they would vote only for the Protestants, but that they pledged themselves thereto to others, in the most formal and binding manner, and that on such pledges a political party was based.

Know-Nothingism was, therefore, something more than a



lamentable aberration; the republic was seriously menaced by it, and it violently shook one of its main pillars. True its foundation was laid deep enough in the thought and feeling of the people to keep it from falling, at the first shock, no matter how great; but if the more sober elements of the people had not rallied to its support, without delay, grave and perhaps lasting injury could not have been prevented. Neither the magnitude nor the nature of the peril could be rightly judged, when one looked only at the fact that a political party had been formed with the object, so far as one certain religious body was concerned, of throwing overboard the principle which, in the political life of the Union, recognized only citizens and knew nothing of creeds. The manner in which the party was formed and the means by which it sought to attain its end were just as significant and almost more objectionable. The form of its pledges were in glaring contradiction with the character of the American people and with the spirit of their institutions and was in itself in the highest degree reprehensible.

In a state in which the people rule, party life is the vital principle of all political life; and hence it is still more necessary here than where the state has any other form, that parties should play their several roles before the eyes of all. In such a state, one takes his position with the frankness of self-consciousness, makes no secret of the reasons that determine him to take it, gains others over to the party by those reasons, and goes with it as long as he thinks best and in what he approves. The republican idea of the state demands this, and, on the whole, this is what actually happens. But here, party had degenerated into a conspiracy. Trading in mystery was carried so far and secrecy so vigorously enforced, that they could not be explained simply by the wish to win dull minds and coarse



characters by such unhealthy charms. A political party which wraps itself up in deep darkness, must have a feeling, that it has to shun the light, even if it be not fully conscious of that fact. The members were bound by oath, so far as the uninitiated were concerned, to "know nothing." Only by vague and unguaranteed reports and inferences from what the party did, could anything be learned of its programme, until treason and chance brought that programme to the knowledge of the public authentically and fully. The members introduced themselves to one another by secret signs; at secret signs and passwords admission was obtained to the secret meetings of the party and, even within the party, organized into ranks and classes, this secrecy was continued. In a word, the Know Nothings were not a party, in the traditional and only correct sense of the term, but a political "order," and as such they were, independently of their programme, a morbid excrecence on the political body which called for serious attention. The Rumanian countries of Europe had happily gotten rid, almost entirely, of caricatures of secret societies, in which the progressive elements, during the period of reaction, had lost themselves. From repeated and sad experiments, it had been gradually learned, that, in the nineteenth century, great political movements can succeed, only when agitation in their favor is carried on, in broad daylight, in order to induce the masses to join them, and to create a public opinion energetic and persistent enough to support them. And now, in the democratic republic of the United States the two-edged instrument was to be employed which, on account of its inefficiency and danger, had been cast aside in countries where the political authorities endeavored to wrest all other weapons, offensive and defensive, from the people. Not only was there no ground but not even the shadow

of a pretext, for the employment of that instrument here, because here unlimited freedom of speech and of the press was not only a legal right, but the actual basis of all political life. Its use was simply contrary to nature, and like everything contrary to nature, in the life of nations, a symptom of disease, and the cause of new morbid phenomena. Under the banner of the most narrow-minded intolerance, the Know Nothings took the field for freedom, and endeavored to make the citizens of a state in which the people ruled absolutely, believe, they must meet in the darkness of the night and mask their faces, so that no one might suspect they had sworn to save the country; since, otherwise, immigrants who had been born and reared in the suffocating atmosphere of servitude would rob them of the inheritance of their fathers, and ambitious Romanists make slaves of them in their own home.

There was something very absurd in this course of the Know Nothings, and one would have felt inclined to look upon it as so much disgusting mumminery were it not that it might have had very serious consequences. Was not the inheritance of the fathers of the republic, that is freedom and self-government seriously menaced, when a large part of the people could so enthusiastically greet those shallow and unheard of vagaries, that the old parties did not, at first, have the courage openly and emphatically to oppose them? <sup>1</sup> What was to become of political masculinity.

<sup>1</sup> Curtis says that Douglas told him: "The party struck terror everywhere among the Democrats, and threatened to gain absolute possession of the government. I tried to get the Democrats in caucus to denounce it, but they refused, and were afraid. General Cass said to me that I had enough to contend with, and could not carry on my shoulders this new element. I was the first Democrat to make a speech against it. I did so at Independence Hall, Philadelphia." A brief treatise upon constitutional and party questions . . . as I received it orally from . . . St. A. Douglas, p. 121.

independent political thought, judgment and action, among the masses of the people, if they allowed themselves to grow accustomed to fight out their political battles, in this un-republican and unmanly manner? It was presumably not at first the intention of the originators and organizers of the movement, that the great body of the members of the party should be reduced to a mere herd of voters, to an extent to which adopted citizens of Irish birth had never been; but, if not their intention, it was the inevitable consequence of the *modus operandi* adopted by them. This soon became so plain that the leaders could not resist the temptation by which they were assailed because of it. It was, indeed, a mere fancy for Stephens to claim that employers had obtained control of the movement started by workingmen in order to obtain employees who had no political rights,<sup>1</sup> but the mass of

<sup>1</sup> He says in his letter to Judge Thomas W. Thomas, on the subject of "Know-Nothingism," May 9 1855: "It is true 'Know-Nothingism' did not originate, as I understand its origin, with the class I allude to. It commenced with the laborers and men dependent upon capital for work and employment. It sprang from the antagonism of their interests to foreigners seeking like employments, who were underbidding them in the amount of wages. (The sources at my command do not show whether, or to what extent, this allegation is well founded; but it must be admitted that this cause contributed a great deal to the rapid growth of the party.) But money capitalists of that section, the men who hold the land and property in their own hands, wishing to dispense with laborers and employees, whose votes at the polls are equal to their own, seized upon this new way of effecting their old long-cherished desire--and the more eagerly as they saw that many of the very men whom they have ever dreaded as the insuperable obstacle between them and their purpose had become the willing though unconscious instruments of carrying that purpose out, which from the beginning, was a desire to have a votingless population to do their work, and perform all the labor, both in city, town and country which capital may require. And as certainly as such a law (requiring a residence of 21 years before naturalization) shall be passed, so far from its checking immigration, there will be

the Know Nothings ran the risk of being actually disfranchised politically, since they allowed themselves, for the sake of the good cause, to be reduced to the level of "voting cattle," by the hierarchical structure and the rest of the apparatus of the secret league. Once a person had taken the oath, he was no longer free, in any given case, to do what he thought proper, but received orders and was obliged to obey them. Thus was the door opened to the leaders to indulge their ambition and to misuse the party in the pursuit of their personal interests. Perhaps the original leaders could boast of a character so pure and firm that there was no fear of their selfishly using their places of trust, although, in the United States, politicians generally do not belong to a class of people who seriously prun to be delivered from temptation. Be this as it may, the saying that where the carrion is there shall the vultures gather, was soon to be fulfilled here. It was so plain how powerful a lever a party organized as a secret society might be made in venal hands, that political aspirants of every kind would soon feel tempted to obtain control of it. And even if, by a miracle, it happened that the leaders continued to be animated by the purest motives,

whole cargoes of people from other countries brought over and literally bought up in foreign ports, to be brought over in American ships to supply the market for the labor throughout all the free states of the Union. (This fear was not entirely destitute of foundation.) The African slave trade, if reopened, would not exhibit a worse spectacle in trafficking in human flesh. And those most deluded men of the north who started this thing, and who are now anning to accomplish the end, may find they have but kindled a flame to consume themselves. The whole substratum of northern society will soon be filled up with a class who can work and who, though white cannot vote. This is what the would be lords of that section have been wanting for a long time. It is a scheme with many of them to get white slaves instead of black ones." Cleveland, Alexander H. Stephens, pp. 460, 467.

the part assigned them, by the very nature of the case, could not but incline them to exercise an authority which far exceeded the limits permissible in a democratic republic. Scarcely had the Know Nothings met with their first great successes, than the secret Grand Council, in New York, began to lord it in a manner which drew down upon it denunciations from its own camp, as violent and bitter as if they had proceeded from the angriest enemy of the party.<sup>1</sup>

<sup>1</sup> The Grand Council of New York had, in October, 1854, without consulting with the subordinate councils, nominated candidates for state offices. These candidates were defeated in the election, because a large number of Know Nothings had not voted for them, for the reason that they considered the action of the Grand Council unwarranted and, as the Brooklyn Council subsequently said: "Good men and true had already been nominated by the great political parties of the state, the nomination of some of whom was effected by the direct action of this order." This defeat caused by insubordination was followed by a penal edict of the Grand Council against the rebels which reads, "Resolved, That the respective councils under the jurisdiction of this grand council, by their proper officers are hereby instructed and required to withhold the term pass from, and forthwith expel from the council all brothers who did not, as aforesaid, fully support the nominations in the last preceding resolution referred to, and who refused to answer as hereafter required, or who shall not offer an excuse satisfactory to the council for such non-support, and, that for that purpose said officers are fully empowered to demand and require of each member of his or their council that he or they do declare with uplifted hand, in open council for whom he or they voted at the great November election, and excuse, if any they have to offer for such non support as aforesaid."

The *True American* replied to this: "Are Americans, sons of free-men, to be driven to the polls like a herd of cattle, there to deposit ballots for hypocrites, knaves, or scoundrels, to them known to be such, when they individually deride and despise—under the pain of impetral displeasure?"

"We will oppose Romanism upon the ground of absolutism in political matters, and condemn foreignism for its sectional intolerance, are not all among the last to succumb to an imperialism which enforces the broadest despotism of Russia or Austria. And still, in the name of liberty, of Christian freedom, of regeneration from slav-

To these angry contests between the leaders about their powers were soon added differences of another kind and of infinitely greater importance. The party was to be an eminently national one, and yet the circumstances of the country assigned to the different parts of the Union an entirely different position on the decisive points of the party's programme. Only in the free states, and especially in the larger cities of the free states, were adopted citizens so numerous that their votes carried great weight, and that their political immaturity might excite alarm, which, especially where the Irish were strongly represented, was by no means unfounded. In the south, on the other hand, their number was so small that there was, for the most part, no need of taking them into consideration at all, in political calculations, and hence the view prevailed there that people had no interest in a crusade against the immigrants.<sup>1</sup> But, on the other hand, Know-Nothingism had

ery, we are commanded either to lick the feet of our would-be masters, or to withdraw from companionship with our brethren. 'Oh liberty, what crimes are committed in thy name'" Congr. Globe, 2d Sess. 33d Congr., App. p. 152

And the Brooklyn Council rejected the monstrous decree with the following resolutions: "Resolved, That we repudiate and condemn the afore-mentioned action of the Grand Council as anti American, anti republican, and the most unwarrantable, abominable, and dangerous assumption of despotic power ever attempted in this republic. In its confession, penance, and threats of excommunication only equaled by the holy inquisition of Spain, and only worthy of imitation by the Grand Council of Cardinals at Rome.

"Resolved, That any American, assenting or yielding obedience to such degading and inquisitorial requisitions, inherits not the spirit of his revolutionary sire, and is unworthy the name of a son of '76, and descends to the level of an ignorant Papist." Ib., p. 53.

<sup>1</sup> Barry of Mississippi said in the house of representatives, "If this order takes hold in the south it will surprise both friends and opponents. It will be a matter of wonder why that section, suffering none of the hardships which are placed as an excuse for the order in the north, and from her institutions peculiarly averse to secret and



very ardent partisans in the southern states, for the reason that, as in everything else, the first question with them now was, how it would affect the slaveholding interest. And this question many believed they must answer by saying that that interest might derive great advantages from the movement. In the first place, they looked upon it as a gain that the raising of new questions operated against the endeavor to oppose a solid north to a solid south, in respect to the slavery question,<sup>1</sup> but claimed farther that the south was interested in seeing a powerful barrier erected against the stream of immigration, since the immigrants came<sup>2</sup> with strong prejudices against slavery, and since

irresponsible associations, should discard a long history of generous toleration to adopt the creed of proscription, and wear the name of an order which, in the northern states, has beaten down the defenders of the constitution and state-rights, and inaugurated more fully than ever before, the era of consolidation and fanaticism." *Ib.*, p. 61.

<sup>1</sup> In my opinion, Julian goes too far when he says that Know-Nothingism was invented by the south with this view. He does not say this in express terms, but the following sentences can be understood to mean nothing else. "Its birth, simultaneously with the repeal of the Missouri compromise, was not an accident, as any one could see who had studied the tactics of the slave holders. It was a well-timed scheme to divide the people of the free states upon trifles and side issues, while the south remained a unit in defense of its great interest. It was the cunning attempt to balk and divert the indignation aroused by the repeal of the Missouri restriction, which else would spend its force upon the aggressions of slavery, for by thus kindling the Protestant jealousy of our people against the pope, and enlisting them in a crusade against the foreigner, the south could all the more successfully push forward its schemes." *Political Recollections 1840 to 1872*, pp. 141, 142. I do not question that such views materially aided the rise of the party, but I believe that the charge must be laid at the door of the conservatives of the northern states.

<sup>2</sup> Senator Adams of Mississippi said, on the 16th of June, 1855: "The whole education of the foreigners, and their prejudices when they come to this country, are against the institution of slavery, every thing they hear at the north but confirms that prejudice, and establishes them in their opposition to the south, and in such a contest as I have supposed, I have no doubt nine-tenths would vote the Republican



the preponderance of the north was increased by them, from year to year.<sup>1</sup> This reasoning was evidently valid to a certain extent, but it could not serve to strengthen Know-Nothingism in the north, for, so far as the argument was correct, the north would have to draw the very opposite conclusions from it. What had excited the north against adopted citizens was, to say the least, a matter of indifference to the south; on the other hand, what made European immigration a thorn in the flesh of the south could not but determine the north to stimulate it as much as possible; and lastly, if considerations which took long periods into account could make the south wish that a movement with which in itself it did not sympathize might succeed, regard for just as undoubted and direct consequences of the utmost importance, made a support of that movement by the south, appear not to be to its interest at all. It would, indeed, have been a very hazardous policy for the slaveholders to make common cause with this party of a day at the expense of their old and tried confederates, the Democrats of the northern states,

ticket. Thus, you see, that for a temporary advantage you are fostering a power destined to destroy the country." *Congr Globe*, 18<sup>th</sup> Sess., 34th Congr., p. 1413.

<sup>1</sup> Governor Smith of Virginia said in a speech: "The origin of the Know-Nothing is a struggle for bread—a frightful and angry question at the north. At the south it is a political question of high importance. The north has 55 more representatives than the south already. The natural increase of the south is one third greater than that of the north, because there are greater checks on population there, but the artificial element of foreignism brings 300,000 who settle annually in the free states with instincts against slavery, making 50 representatives in 10 years to swell the opposition to the south. To stop this enormous disproportion what is our policy? What is the frightful prospect before us? The effect of Know-Nothingism is to turn back the tide of immigration, and our highest duty to the south is to discourage immigration. I deprecate it as a great calamity." *The N. Y. Tribune*, March 14, 1855.

although the latter, as Hunter remarked in a speech at Richmond, were in great difficulty, because, in the Kansas question, they had followed the standard of the south.<sup>1</sup> The south least of all, as we shall yet see, could afford to ignore how problematical the future of the Know Nothings was, and hence, by making common cause with them, it would be evidently surrendering the bird in its hand for the two in the bush.

So far as the Catholic question was concerned, it was still less permissible for people in the south to march under the same colors as people in the north. In the south, it was only in Louisiana and Maryland that the Catholics were of any importance by reason of their numbers and social position, and in both states, the leading Catholic families were, for the most part, long settled in the country, or were descendants of the very first settlers. Not even the suspicion of Ultramontane views and efforts had ever been raised against these people, and no one claimed that they had changed their convictions in a day. What reason, then, could be given for the demand that, from this time forth, they should be excluded from all elective offices, because of their religion? Here every attempt to make a bogbear of Catholicism was simply ridiculous, because people's own experience could not be obliterated by what, in the north, under entirely different circumstances, was, with or without reason, a cause of apprehension. But as the non Catholics of the south could not be moved and won by an appeal to their Protestant feelings, the only possible and inevitable consequence of the demand for the proscription

<sup>1</sup> "Throughout the representation of the whole of the non slave holding states (in congress) no man was to be found outside of the Democratic party, who sustained the Nebraska bill. And now that they are in difficulties, for so noble a discharge of their duties to the constitution is this a time to desert or distrust them." Hambleton, *A History of the Political Campaign in Virginia*, p. 90.

of Catholics would have been that a large and influential portion of the population would have been driven to engage in bitter opposition to the party. This was so plain, that this portion of the programme was immediately stricken out for the south, and only the nativist plank of the platform retained.<sup>1</sup> The old parties perished by the untruth in themselves and against themselves which had been produced by the development of the slavery question, and this new party which wished to change the process of dissolution into a new formation of parties, on a national basis, immediately began its course with the same untruthfulness in and against itself, that is with a double programme drawn to suit different parallels of latitude.

In the south, there was practically no immigrant question and no Catholic question. One-half of the Know Nothing programme was unacceptable to the south, because objectless, and the other half had a meaning there, only by

<sup>1</sup> "It is not to be denied that there is diversity of opinion among the brethren of different sections. The order seems already to have fallen into the most corrupt practice attributed to the old parties, and to the most corrupt class of old politicians, that of varying its creed with every change of latitude. In the infancy of its existence, it is already mature in its vices, and with a most surprising harmony between the end and the means, it aims at political and religious intolerance by seizing on every prejudice and adopting every creed. The foreign Protestant is told that the order strikes only at Catholicism, and the native Catholic is assured that it interferes with no man's religion, but attempts to limit the influence of foreigners."

"In Louisiana, Catholics are allowed to join the order, we are told—and why? because that denomination is too numerous there to be assailed openly. If the order throughout the Union is sincere in its hostility to Catholicism, then the Catholics of Louisiana and elsewhere, who are persuaded that their faith is not to be harmed, are deceived and betrayed, but if they are not thus deceived, all others who have joined with the hope of crushing the influence of that church, are imposed upon, and have sworn their oaths in vain." Barry of Mississippi, on the 19th of December, 1854 in the house representatives. *Congr Globe*, 2d Sess., 33d Congr., App. p. 58

reason of the indirect effects expected from it, effects opposed to the interests of the free states. Hence it was, from the first, undoubted that the Know Nothings would be beings of a day, for a national party without a national programme is an absurdity. But the Know Nothing programme was not only not a national one, but it added another proof to those already given that a national programme could not be found, so long as the slavery question remained unsolved. The conservative elements of the north who had had the chief part in the foundation of the party, were by no means concerned solely or even primarily with its two avowed aims. They thought they had found in Know-Nothingism a means for the realization of the finality declaration, and the wish to escape the slavery question had attracted to Know-Nothingism a great part of its adherents. This appears from the fact that, nothing had happened specially to attract attention to the immigration and Catholic questions, at this time. A party was not organized to carry out a programme, but a programme was drawn up to enable people to form a party, and by that means to prevent a consolidation of parties on the slavery question. Men did not harbor the illusion that the immigration question and the Catholic question were, at the time, the heart of the political life of the Union, but by means of these questions, they wished to check the development of things determined by actual conditions and correctly recognized as such development, in the hope that it would be sufficiently weakened, by the turning of passion into other directions, to avert a catastrophe. The origin of the party, so far as it must be traced back to this unexpressed but very evident motive, was, therefore, a new and very powerful proof, that the slavery question was the only possible basis on which parties could be built. Even those who were not yet able to recognize this became convinced

of it by the short history of the party. It did not perish because, in the south, there was no immigrant or Catholic question, in the same sense as in the north, nor because, even in the north, it did not have the importance which it was sought to ascribe to it, nor finally, because the solution of the two questions advocated by the Know Nothings was equally opposed to the real interests of the country and the spirit of its institutions. Each of these causes would in itself have been sufficient to have caused the party slowly perhaps, but unceasingly to decay and die out; but before they could fully assert themselves, the slavery question had killed the party. While in the south, as has been already remarked, sympathy and opposition were determined chiefly by the presumptive effects of the party on the slavery question, it immediately appeared, in the north, that pass-*paroles*, secret signs and closed doors had not shut out the spectre which people had sought to escape. There it sat, in the midst of the saviors of the republic, soon monopolized attention, and long before the end of the term which the party had, according to Henry A. Wise, set to conquer the senate of the United States, the secret confederation was only a historical reminiscence.

The appeal to nativism had found an echo not only where people, from a desire for peace, personal interest or patriotism, saw the last anchor of safety in the finality vow. The final object of the quietests demanded the absolute ignoring of the slavery question, and hence to the opponents of slavery with nativist tendencies admission into the order was permitted. But even if the slavery question could have been left unmentioned in the written confession of faith of the Know Nothings, it would have been almost impossible for them to remain silent on it. The pros and cons of slavery found expression in a daily conflict of words and deeds, and hence people could

not remain only actually neutral on it, but had to confess that their neutrality was a neutrality of principle, even if between the hammer and the anvil, there was a vacuum in which they might have found refuge. This soon happened, but of course not in a few short words, but in the stereotyped formula of fidelity to the Union, the broad, grand cloak under which political and moral cowardice in respect to the slavery question could so well conceal itself, and which never failed of its effect because there was always an honest self-deception at the bottom of this deception. In November, 1854, a meeting of representative Know Nothings was held in Cincinnati. Kenneth Raynor of North Carolina, moved, in that meeting, the establishment of a third degree of the order which was to be called the "Union degree," and which was to be a pledge of absolute fidelity to the Union.<sup>1</sup> The motion was adopted almost unanimously and it was claimed that, within six months, half a million of men had been sworn into the order of the American Union.

Wilson thinks that Raynor intended to oppose secessionist tendencies in the south.<sup>2</sup> The sentence quoted by him from Raynor's defence of his motion is, however, so constructed, that to say the least, it might be applied just as reasonably to all the active opponents of slavery. Devotion to the Union had, for more than a generation, been the official term to express subserviency to slavery.

<sup>1</sup> "He (Raynor) declared his object to be 'the preservation and perpetuity of the Union in all coming time, to maintain and defend it against all encroachments under all circumstances, and to put under the ban of proscription any and all men who might be engaged in impairing its vigor or resisting its authority.'" Wilson, *Rise and Fall of the Slave Power in America*, II, p. 21.

<sup>2</sup> "He conceived the patriotic idea that the new association might be turned to good account by arresting the disunion sentiment that was manifesting itself in the south." *I. e.*



and as the proposition to rivet that band about the Union which was fast falling to pieces, proceeded from a slaveholder, it had to be assumed, that the "proscription" demanded by him would be visited first on the "fanatics" of the north. Thus it was certainly understood, and Wilson himself, had to admit that the establishment of the Union degree promoted only the cause of the slaveholders.<sup>1</sup> It was daily proclaimed more loudly that the party looked upon the suppression of the agitation of the slavery question as one of its chief tasks.<sup>2</sup> The honesty of this profession could not be doubted, although the desire of propagandism in the south, caused the assurance of it frequently to assume too emphatic a form. But this half voluntary and half forced breach of its original silence, on the slavery question, injured the party in the north more than it served it in the south. Its defeat in New York was occasioned not only by the arbitrariness of the Grand Council, but it was, in part, to be ascribed to this. That Seward, although he had declared with the utmost decision against Know Nothingism, was re-elected to the senate, was the severest blow the party could, at the moment, meet with. Large circles of people, north and south, who otherwise, perhaps, might have been won over to the party, saw in this the most convincing proof, that the charm of the nativist call was impotent in the presence of the power which the slavery question held over the minds and hearts of men.

This view soon proved entirely well founded, but spite

<sup>1</sup> "Whatever may have been the influence of this Union degree over the mind and heart of southern men, its tendencies in the northern states were to foster the interests of slavery and to sustain the slave power." *Id.*, p. 422. Wilson naturally handled the Know Nothings only with silk gloves, as he was himself one of their leaders in Massachusetts.

<sup>2</sup> Compare *Congr. Globe*, 3d Sess., 33rd Congr., App. pp. 50 and 269.



of that, the opponents of the Know Nothings were wrong when they claimed that the efforts directed against the agitation of the slavery question were entirely fruitless, or only a pretext to gain over the slave states. The very fact that the most distinguished agitators against the slavocracy were also decided opponents of the Know Nothing movement, suggested that they considered it an injury to their own cause. They made no concealment of this, but vehemently and incessantly complained that their fellow believers, in the slavery question, who had joined the order, blindly and foolishly left them, like children to follow the music of some street musician.<sup>1</sup>

<sup>1</sup> In a speech delivered by Patton at Richmond, we read: "Greeley, or Weed, the peculiar organ of W. H. Seward, or Wade, of Ohio, or Giddings, all of whom denounce this American party as the deadly enemy of the abolition party." *Hambleton, A History of the Political Campaign in Virginia, in 1855*, p. 189.

Henry Ward Beecher writes: "The facility with which the aroused indignation by the Kansas-Nebraska bill of the whole north has been extinguished by the miserable perfidy of the so-called American party is mortifying and sorrowfully prophetic. By years of persistent labor, the conscience and honor of multitudes of the north had been aroused. They began to see and value the real principles fundamental to American institutions. Under the shallow pretense that Know Nothing bores would, by and by, become the champions of liberty, as now they are of the Protestant faith, thousands have been inveigled into these catacombs of freedom. One might as well study optics in the pyramids of Egypt, or the subterranean tombs of Rome, as liberty in secret conclaves controlled by hoary knaves versed in political intrigue who can hardly enough express their surprise and delight to see honest men going into a wide spread system of secret caucuses. Honest men in such places have a peculiar advantage that flies have in a spider's web—the privilege of losing their legs, of buzzing without flying, and of being eaten up at leisure by big belled spiders." *The Independent*, January 18, 1855.

And again on the 15th of November, the *National Era* says: "But our readers will recollect how continually we have insisted that the one obstacle to an effective union of the free states on the slavery issue was this bigoted organization. See how utterly it has paralyzed the

And it would, indeed, have been wonderful if they did not look with dread into the future, for the vertigo had taken hold of the opponents of slavery no less strongly than it had of the conservatives; and, in their first ardor for the new ends to be attained, they naturally did not feel for the old ones with the same intensity.

It had by no means escaped the notice of the south, how successful nativist propagandism had been, among the opponents of slavery. But while the Greeleys, Wades, Giddings, Beechers and others saw in this only a lamentable thinning of their own ranks, the south was not less dissatisfied with it, because it saw that it was an infection of the originally conservative party. It did not ignore that the adoption of the nativist principles did not, by any means, imply a conversion to the belief in finality, and that, therefore, the strong accession to it of elements opposed to slavery, prevented the consolidation of the party under any and all circumstances, and could not, in consequence, but check the development of its power. And was it not, at least, just as probable that, in the internal conflicts which would necessarily arise over this question, the "fanatics" would make proselytes among the conservatives, as that the former would be drawn over by these? In Illinois, the "Jonathans," who were opponents of slavery but not of the immigrants, provided the latter claimed to owe no obedience to the Pope in matters temporal, were opposed by the "Sams" who advocated the whole nativist programme, but who in the slavery question assumed the finality standpoint, or were dough-

anti-Nebraska movement in Indiana and New Jersey, and the almost inextricable embarrassments in which it has involved it in Pennsylvania. . . . Aye, Know Nothingism is divided, and continues to divide, the free states and unless its power be broken before next November, it will lay them prostrate again at the feet of the slave power."

faces; and, after a severe struggle, the "Jonathans" remained victors in the "Council" of the state.<sup>1</sup> In Maine, too, the opponents of slavery had the preponderance, and, in Massachusetts, the labors of the leaders were from the first, directed towards making the party a tool in the service of the anti-slavery movement.<sup>2</sup> It is, therefore, not surprising that, while Greeley and others denounced Know-Nothingism as the mortal enemy of that movement, it was extensively claimed, in the south, that it was a confederate of, and powerfully promoted, abolitionism.<sup>3</sup> Both views were based on facts, but both took only a part of the decisive facts into consideration.

At no other time had party affairs in the United States presented so unclear a picture as at this moment. They were a strange medley, in which the color tones, spite of

<sup>1</sup> Compare the *Chicago Democrat*, 3rd and 4th of May, 1855.

<sup>2</sup> The *Boston Courier* writes: "The leaders of the party are determined to make the party in Massachusetts thoroughly anti-slavery." Cited by Hamblaton, *loc. cit.*, p. 235.

<sup>3</sup> In the address of the democratic executive committee of Virginia, already mentioned, we read: "The elections in which they (the Know Nothings) have already triumphed afford us sufficient data to infer their policy upon the most important of these subjects—slavery.

Know Nothingism has had its origin and growth in those quarters of the Union where Abolitionism is most powerful. At the very instant that Know Nothingism has swept over the non-slaveholding states, Abolitionism has acquired an ascendancy to which it never before aspired. Every election in which northern Know Nothingism has triumphed, has ensured to the benefit of Abolitionism. Every individual whom the northern Know Nothings have elected to either branch of the Federal legislature, is committed to the most violent views of the Abolitionists. They have prostrated, wherever they had the power to do so, the same men whom the Abolitionists wished to prostrate. They have sustained every man whom the Abolitionists wished to save. Know Nothingism, in the ascendant throughout the non-slaveholding states, does not elevate into power a single friend to the south. Everywhere they are doing the work which Abolitionism has been unsuccessfully attempting for years. And yet we are required to believe that they were not organized to perform this part."

their glaring contrasts, flowed together in such manifold and such different ways, that it was impossible to fix them; and at the same time their aggregate character changed in the most remarkable manner with every change of the visual angle of the observer.<sup>1</sup> Hence the results of the election might, in the best of faith, be to a certain extent very differently judged. Stephens' assertion that they could not be declared a condemnation of the Kansas-Nebraska bill was by no means entirely baseless, for, where pure Know-Nothingism prevailed, a great many decided opponents of the bill were not re-elected, and some friends of it were again sent to congress.<sup>2</sup> But, on the other

<sup>1</sup> Douglas said. "The fact is, and the gentleman (Wade) knows it, that in the free states there has been an alliance, I will not say whether holy or unholy, at the recent elections. In that alliance they had a crucible into which they poured Abolitionism, Maine Liquor lawism, and what there was left of northern Whigism, and then the Protestant feeling against the Catholic, and the native feeling against the foreigner. All these elements were melted down in that crucible, and the result was what was called the Fusion party. That crucible, in which these various elements were melted, solved, and united was, in every instance, a Know-Nothing lodge." *Congr. Globe*, 2d Sess., 33d Congt., App., p. 216.

<sup>2</sup> "Sir, it is fashionable to talk about your anti Nebraska triumphs in the free states, but I should like to know a man in any free state of this Union whom the anti Nebraska men have elected to either house of congress, who was not elected by the Know Nothings? I ask any senator present to point me to a man of them who did not receive the Know Nothing vote? Will the senator from Massachusetts (Mr. Wilson) say that it was anti-Nebraskaism that sent him here? Was it the anti Nebraska feeling that beat every anti Nebraska member in Massachusetts who was a candidate for re-election? That is one of the anti-Nebraska victories which are spoken of, where a whole delegation, arraying themselves under the black banner of Abolitionism, and fighting Nebraska were all swept away, and another delegation under a similar black banner, are to come in their places? . . . you boast that you beat every Nebraska Democrat in Ohio at the last election, and you might have added that you beat every anti-Nebraska Democrat also, because the Know Nothings demanded other men. Look

hand, it was not a mere accident that, in the twelve free states in which elections had taken place, decided opponents of the bill had, in almost every instance, been elected, for they owed their election not solely to their Know-Nothingism but largely to their position on the Kansas-Nebraska question. Even the northern "Nebrascals" themselves had recognized that, in the north, the interest of freedom was the dominant feeling in the electoral campaign, for they had, everywhere in the north, emphatically claimed that the bill was an act in favor of freedom.<sup>1</sup> Besides, all the elections had gone against the administration, and as the administration was identified with the bill, the policy incorporated in it received from this fact a heavy although indirect blow.

It was, however, a demonstrable and plain untruth that the defeat was limited to this. The victorious opposition was only a coalition, and the elements of which it consisted were determined by such different motives, that it was impossible it could last. But Douglas knew well enough that the fusion party did not, as he claimed, owe its vitality only to Know-Nothingism.<sup>2</sup> It was true that a

over all the recent elections, and wherever you will show me one Nebraska member of the house cut down, I will show you, I think, nearly two for one anti Nebraska men defeated at the same election by the same causes" Douglas, *Ib.* p. 215

<sup>1</sup>The *Detroit Free Press* had written, even before the adoption of the bill: "Mr. Douglas's bill is the greatest advance movement in the direction of human freedom that has been made since the adoption of the constitution." The article printed in the *N. Y. Tribune* of May 18, 1854, contains all the arguments by means of which it was again sought to prove the bold assertion.

<sup>2</sup>What we had to fight at the north, was nominally a Fusion party, but the organization was the Know Nothing councils. Its whole vitality, its energy, and its power, arose simply from the fact that its incongruous elements, which were to be moulded into one harmonious bond, could be assembled at the dark hour of the night, when honest people were asleep, and there, under the protection of the most hor-

large share of the victories could not have been achieved, if the conservative part of the Know Nothings, as to the slavery question, had not helped win them, but, spite of this, there was as little vitality in Know-Nothingism as in the fanaticism of the temperance movement; the only element in the mixture that had any vitality and, therefore, any hope of a future, was the idea representative of opposition to the slavery. But its vitality supposed the absence of vitality of Know-Nothingism, whose internal dissolution kept pace with its external success. In the north, the party, with its victories, and to some extent, because of them, fell away from its original conservatism on the slavery question, and, hence, the Know Nothings were, during the elections of 1854, one party, only in name. The separation of the wings of the party from its body had begun, for they had become conscious that they had that which was common to them less at heart than that which divided them. Singleton of Mississippi, was able, although he did not belong to the party, to so declare,

ribble oaths to observe secrecy, plan and plot, and pledge themselves to the execution of schemes which an honest man would never dare to proclaim to the world or avow in the light of day. Thus by stratagem and terrors, men personally hostile, were forced to act together—men who were the advocates of adverse and irreconcilable political theories, were apparently moulded into one common brotherhood; and although they might not approve of the objects, yet, being bound by oaths to obey orders and vote as they were directed, they felt constrained to yield obedience under the terrors of being branded as traitors and perjurers, as your Littlejohns and other recreants have been for voting for Mr. Seward." *Congr. Globe*, 2d Sess., 33d Congr., App., p. 216.

To this Fessenden replied: "I would point him to the election in Connecticut, . . . to the election of last year (1854) in New Hampshire, which took place before Know Nothingism was heard of; to the election in Maine, with which that organization had little or nothing to do; to the election in Rhode Island, to the election in New York, a contest which resulted in sending my honorable friend Mr. Seward back to this place for six years, and let him ask himself if Know Nothingism produced those results there?" *I. C.*



in the name of the southern Know Nothings, without being contradicted by them.<sup>1</sup> And the *Worcester Evening Journal* proudly proclaimed that the party did not need to deny its friendship for freedom proved in all the elections in the northern states, for it did not want the southern states in order to triumph in the next presidential election.<sup>2</sup> In opposition to this, the *New York Herald* claimed that it was an easy matter to purify the party from the last traces of the abolitionist doctrines and connections which still cleaved to it, and thus to insure its victory, in the impending national electoral battle.<sup>3</sup> The claims of

<sup>1</sup> "I proclaim to the world that they will not stultify themselves by any such connection, that they will not be cheated into any such unholy alliance. While they have organized Know Nothing lodges, with a membership numerous and respectable, and, it may be, with controlling political power yet its members south can have no feeling or principles common with those of the north, and the order can have no nationality. A southern man will never consent to be found in secret confederacy with a Burlingame, a Wilson, a Fogg, or a Wilmot, plotting the destruction of slavery." *Ib.*, p. 270.

<sup>2</sup> "The following states, we know, can be carried today by the American party, and we attach to each the number of votes they are entitled to: Pennsylvania 27, Massachusetts 13, Maine 8, Delaware 3, New Jersey 7, Illinois 11, Indiana 13, Rhode Island 3, New York 23, Ohio 23, Connecticut 8, New Hampshire 6, Vermont 5—making in all 160 electoral votes, being eleven more than are required for the election of president. These figures show, that, as a party we are independent of any southern support whatever, and therefore the temptation or the necessity of bidding for southern votes does not exist, for the two great states of the Union are now secured to the American party. Maryland and Virginia are sure to go for the American ticket, but without the aid of a single vote from these almost northern states, we shall elect in 1856 an American president. The slavery question can not affect the American party; for its whole power, and all its hope, are north of Mason and Dixon's line. Its aspirations are for freedom, and when the party is accused of being pro-slavery let its defenders point the men who uttered the base lie to every election that has occurred since the party sprung into existence." *I. c.*

<sup>3</sup> "The Know Nothings entered into the late elections side by side with the anti-slavery forces rallied throughout the north upon the anti-



the two journals were gross and evident exaggerations, but both claims had a correctly appreciated fact as a basis. The *Evening Journal* was right in considering the element of the party friendly to freedom to be so powerful, self-reliant and true to its convictions, that it could never be induced to court the favor of the south by flattering the slavery; and the *Herald* was right in the conviction that the conservative Know Nothings of the north would no longer go with the anti-slavery wing, as they were compelled to choose between them and their southern party associates. This only was still doubtful: by what side the initiative in the breach would be taken, and when it would be an accomplished fact. Even before the close of the second session of the 33rd congress, the party had become divided into two groups, to such an extent that the original alarm created by its victories, had changed into a conviction that it had, in the elections of 1854, reached the zenith of its power. But, not only that. The slavery at least had already recognized that the disappearance of the party from the stage of politics would not restore the *status ante*. Spite of all the fair words of the Conservatives and all the smooth sophistry of the northern Democrats, it had become clear that this foolish interlude of Know-Nothingism was one of the signs of the times which presaged no good. Bailey of Georgia emphatically repelled the vain efforts made to deny the great influence

Nebraska furor . . . . A little resolution and unity of action on the part of the northern Know Nothings are all that is now wanted to cleanse their skirts of the last remaining vestiges of anti-slavery doctrines and affiliations . . . . Such combinations of anti-slavery men and Know Nothings have had in view the crushing out the greatest unbecome spoils coalition at Washington, and in this light they may be considered as the necessary preliminary steps in clearing the track for the projected national revolution of 1856." Cited by Hambleton, *A History of the Political Campaign in Virginia, in 1855*, p. 251

which the Kansas-Nebraska bill had had on the issue of the elections,<sup>1</sup> but the object of his frankness was to oppose to this unpleasant fact the one thing on which the south had always fallen back,—threats. It was deserving of special notice that he now held out the threat of the Georgia platform, which had been called the Union platform.<sup>2</sup>

Know Nothingism disappeared, without having accomplished the least thing against immigrants, adopted citizens or Catholics, and yet it must not be compared to a meteor which shone resplendent for a moment, and then vanished leaving no trace behind it. It had a great effect. What it was mainly intended to prevent, it powerfully promoted. The formation of a new party, on the basis of the slavery question, which had become unavoidable, had, indeed, been somewhat delayed by its rise, but, on the other hand, it had, by greatly hastening the process of the dissolution of the old parties, cleared the way and prepared the soil for such a new party. This was soon ignored only where it was ardently wished to see the ball which had been set rolling come to a standstill, for the new process of crystallization was only rendered slower but not prevented by the spring-tide of Know-Nothingism; the first firm

<sup>1</sup> "It has been contended upon this floor and elsewhere, by distinguished gentlemen, that the Kansas and Nebraska question had but little if any influence in the late elections; yet I am constrained to believe otherwise; and from the evidence which has been adduced with my conviction it would be the worst duplicity to attempt, by concealment, to lull the fears of the south." *Congr. Globe*, 2d Sess. 33d Congr. App. p. 328.

<sup>2</sup> "This question, above all others, I desire to see this government not to touch with hostile intentions, as the state of Georgia, in convention of the people has declared the ultimatum upon which she will interpose the highest power of her sovereignty; and I ask you not to abuse her patience or require her to test before the world the sincerity of her professions." *Ib.* p. 320.

deposits in that process were made while nativism was at its height.

In February and March, 1854, as Wilson relates,<sup>1</sup> Whigs, Free-Soilers and Democrats made the beginning, in Ripon, Wisconsin, of the formation of a new party. In a meeting held by them on the 30th of March, it was proposed to call it the Republican party, and the task it laid out for itself was the confinement of slavery within its present limits. It may be—Wilson leaves it uncertain that to that almost unknown spot, in the Far West, belongs the glory of having taken the first step on the road which led to an event in the world's history, the more remote effects of which cannot, even in our day, be fully estimated. But the impulse to the deed, so pregnant with consequences, was not given in that place in its humble schoolhouse, but in dozens and dozens of places at the same time, for there was no question here of an accident, discovery or sudden enlightenment. People only now began to do what for years was loudly declared desirable, and they at last proceeded from words to deeds, because the latest events had awakened the conviction that it had become a necessity.

The day after the adoption of the Kansas-Nebraska bill, about thirty members of the house of representatives met, in conference. The result of their consultation was the resolution to take the organization of a new party in hand, for the reason that there was no longer any hope that the old ones could successfully oppose the growing encroachments of the slavery; here too the name "Republican party" was contemplated. In the course of the summer, people set about the same work, with more or less success, in several other states—Wisconsin, New Hampshire, Indiana, Ohio, Connecticut, Iowa and espe-

<sup>1</sup> *Rise and Fall of the Slave Power in America*, pp. 400-410.

cially Vermont and Michigan. Not only were coalitions formed, but it was sought to effect real fusions, and they were either immediately made or the way was so far prepared for them, that they could certainly be brought about at the first impulse.<sup>1</sup> In New York, an Anti-Nebraska convention was held at Saratoga, on the 15th of August, which joyfully greeted the course of the friends of freedom, in the other states named,<sup>2</sup> but a motion that the convention itself should immediately follow their example was laid on the table, amid great confusion.<sup>3</sup> In Auburn, a motion of Snow's to establish a Republican party, independent of all party organizations in the state, was again laid on the table, and it was resolved to accept the Whig list of candidates. But the convention was, nevertheless, not entirely without result, so far as the new movement was concerned, for another resolution was adopted which invited delegates of the free states to a convention to be held at Syracuse, on the 4th of July, 1856, in order to nominate candidates for the presidency and vice-presidency.<sup>4</sup>

<sup>1</sup> Some of the details may be read in Wilson *loc. cit.*, pp. 411-413. See also Julian, *Political Reflections*, pp. 143-144.

<sup>2</sup> The seventh of the resolutions moved by Greeley in the name of his business committee read: "That we heartily approve the course of the freemen of Connecticut, Vermont, Iowa, Ohio, Indiana, Wisconsin, and Michigan, postponing or disregarding their minor differences of opinion or preference and acting together cordially and bravely in the sacred cause of freedom of free labor and free soil, and we commend their spirit to the freemen of this and other states, exhorting each to renounce his party whenever and wherever that party proves unfaithful to human freedom." *The N. Y. Tribune*, August 17, 1854.

<sup>3</sup> The usual expression "to nominate" was not unintentionally, not made use of. The wording was, "Charged with the duty of presenting candidates for state officers to be supported at the ensuing election." H. T. Raymond has before said: "We now propose to be a party to control both the other parties' platforms."

<sup>4</sup> "Resolved, That we recommend that a convention of delegates

With all this, nothing was achieved, but the way was prepared for a great deal. These doings were only germs, but they were germs capable of development, and it could be all the more confidently expected that they would develop powerfully, as the chief authors and leaders of the movement neither under-estimated nor over-estimated these first successes. The goal, the *Tribune* said, on the 6th of March, 1855, could not be reached at the first onset; the friends of the anti-slavery movement would have to expect reverses, but might look into the future full of confidence, for resistance to the slaveryocracy was beyond all contingences: a firm and permanent basis for it had been obtained.<sup>1</sup> These sentences described the situation very well. The laying of the foundation had been begun, and it was imbedded so deeply that it was able to support a structure capable of resisting the combined onslaught of the slaveryocracy, of the douglases and quietests. The greater the success achieved by the Know Noth-

from the free states equal in number to their representatives in congress respectively be held at the city of Syracuse on the Fourth of July, 1856 to nominate candidates for the presidency and vice presidency of the United States for the next presidential election." The *N Y Tribune*, Sept. 27, 1854. On the effort made in Massachusetts to establish a Republican party, see Wilson, loc. cit., pp. 414, 415.

"The anti-slavery movement is no longer at the mercy of spasmodic and irregular forces. It has got a religious momentum from its own action that secures it against obstruction from opposing influences hereafter. It cannot be arrested or again subordinated to other political issues. This is the great fact evolved from the elections of 1854. We especially commend it to the Know Nothing managers. . . now it stands as the absorbing and overshadowing question in our politics. This position it will continue to occupy till either the national government is divorced from the support of the institution or the free and slave states of the Union cease to live together under one government. That the movement will be constantly onward and invariably successful, is too much to expect or hope. It will have its periods of success, and it will probably meet with reverses."

ings, the more stones were carried to the structure, and the aggression of the south furnished the cement which held them together.

## CHAPTER III.

## THE KANSAS TROUBLES.

The political interest in the second session of the thirty-third congress culminated in the discussion of the question, whether, and to what extent, the elections of 1854 were a judgment condemnatory of the Kansas-Nebraska bill. Different as were the answers given to the question, the great importance of the result of the elections was universally recognized, since so much time was devoted to the discussion and it was carried on with so much passion. In what way, party politics were to be allowed to be influenced by the result, had, of course, to depend on how it was interpreted, that is, on what causes it was ascribed to. The profound silence of the annual message could only be understood to mean that, in the opinion of the president, the Democrats and the slavocracy would do well to let the storm blow over, and to abstain from any new provocation which would presumably increase its violence. This advice, given in the form of good example, might be very wise, but, even with the very best will, it could be followed, only to a very limited extent. The victors, it need scarcely be said, did not await, with folded arms, a new attack, for Kansas was not yet lost to freedom, but had only become an object of contention. They did not envelop themselves in silence, but spoke in tones so loud and high, that the vanquished, who still had the power in their hands, were obliged to answer in the same way, if they did not wish to give up their cause, an idea which



did not occur even to the most faint-hearted. Should the representatives of the south and their adherents in the northern states now anxiously assume the defensive, because, within a year, they would be confronted in the house of representatives, by a majority of which it could not be said how far its energy and solidarity would go? Had it ever occurred to the slavocracy to strike their sails, turn their ship before the wind, the moment a heavy sea broke over its deck and made it careen? Precisely because they did not deceive themselves as to the causal connection between the issue of the elections and the Kansas-Nebraska bill, they looked upon it as doubly imperative on them to return blow for blow. When Mace of Indiana, proposed a bill which prohibited slavery in Kansas, in the very words of the Ordinance of 1787,<sup>1</sup> and in his argument in favor of it, made the assertion that the bill must be adopted, if all the representatives voted in accordance with the will of their constituents, as that will had found an expression in the last elections,<sup>2</sup> Stephens whom it had been impossible, hitherto, to compel to give an unambiguous definition of the "principle" of the Kansas-Nebraska bill, replied that, not until the adoption of a state constitution would the right of self-determination of the territorial population, in respect to slavery begin.<sup>3</sup>

Whatever the consequences of the victory of the united opposition might be, the south was evidently not intimidated. For years to come, it was under all circumstances, certain that none of the positions it had won could be wrested from it, for no hostile resolution of the house of

<sup>1</sup> Congr. Globe, 2d Sess. 33d Congr., p. 47.

<sup>2</sup> *Ib.* p. 48.

<sup>3</sup> *Ib.* p. 56.

representatives would receive the assent of the senate or the sanction of the president. As it was thus, spite of its defeat, relieved of the necessity of defending the acquisitions it had hitherto made, tactical considerations demanded that it should energetically pursue its offensive policy. While the least turning back would have been interpreted as a sign of weakness and would have spurred on opponents of the south to renewed endeavor, all previous experience suggested that it would still be possible for it to sever the uncertain elements of the opposition from its main body. To be victorious, it was necessary to show some assurance of victory, and assurance of victory was best manifested by its coming forward with new and bold demands.

On the 17th of February, 1855, Toucey of Connecticut, in the name of the judiciary committee, introduced a bill, to the discussion of which, on his motion, the entire sitting of the 23rd of February was devoted, although he had said himself that there was scarcely time enough for the discharge of the most necessary business. The bill must, therefore, have been, in his opinion, very urgent, and this all the more as it was a Friday which Sumner called "our day of justice," because it was wont to be reserved for private bills, 75 of which had not yet been disposed of. A stranger would not have been able to find, in the wording of the bill, the least support for the claim that there was need of haste in the matter, while it would have been clear to him, at the first glance, that the bill involved a question very important, at least in principle, and which called for mature deliberation. Anyone against whom a suit was brought for an act done by him in accordance with a federal law, might, in future demand that his case should be tried, not by the state court in which it was begun, but by a court of the United States—such, in brief, were the

contents of the bill.<sup>1</sup> Chase, Fessenden, Wade, Seward, etc., who very strongly opposed the bill, claimed that it was introduced merely because of mistrust of the state courts enforcing the Fugitive Slave Law,<sup>2</sup> and Bayard and others unreservedly admitted that its object was to rob the Liberty Laws of their efficiency. In order, therefore, to be able more surely to enforce the Fugitive Slave Law, the eminently important principle that federal offenders might be held responsible for their official acts, before the state courts, was to be surrendered.<sup>3</sup> And this demand was made by those who had always pretended to be unconditional champions of state rights, and who had based their whole constitutional creed on state sovereignty. This was not the first proof that, undoubtedly honest as that creed was, they did not hesitate a moment to demand the utmost consolidation of the Union when the slaveholding interest required not the usual "let us alone" but the energetic interference of the federal authorities. Wade now appealed to the Virginia and Kentucky resolutions, while a frank declaration could not be wrong from Douglas as to whether he confessed to them or not, and Benjamin considered this inroad on the jurisdiction of the states so necessary, that he believed himself obliged once more to hold out the threat of the dissolution of the Union. And this was not the only thing which recalled the prophecy that, after the adoption of the Kansas-Nebraska bill, one would no longer be able to tell whether a speaker came from the slave states or from the north. Almost the entire senate acted as if the most horrible things were to be expected unless it immedi-

<sup>1</sup> See its wording in the Congr. Globe, 2d Sess., 33d Congr., App., p. 241.

<sup>2</sup> *Ib.*, pp. 221, 222.

<sup>3</sup> Thus far, this principle had been run counter to, in only one instance, and for the better protection of the revenues of the state. See Seward's remarks on this subject, *loc. cit.*, p. 242.

ately resolved thus to strengthen the Fugitive Slave Law which the Liberty Laws sought to render nugatory. All the efforts of the opposition to adjourn the matter were fruitless. The debate lasted from eleven o'clock in the morning till midnight, and then the bill was adopted by 29 votes against 9. The session lasted only another week, and it could not be supposed that the majority of the house of representatives would in that short space of time push the bill through three readings and compel its adoption unchanged, to say nothing of the fact that a great many of the northern Democrats who had hitherto remained faithful to the slavery would not be inclined, after the result of the elections, to accede to such a demand just then. The senate had, therefore, acted with the consciousness that it was only making a demonstration, which it must know, and as Cooper of Pennsylvania warned it, would be received by public opinion in the north in the same spirit as the Kansas Nebraska bill.

Such demonstrations were not needed to excite the passions of the people. In Kansas, events which could not but fan them to a heat never before attained now began to follow one another without intermission.

On the 25th of February, 1855, the New England Emigrant Aid Company was incorporated. Its capital was limited by the state law on the matter to a million of dollars, and its object was in very general terms declared to be to aid emigration to the west. But everyone knew that there was question only of Kansas, and emigration thither was to be promoted that the struggle over the territory might be maintained at the polls. To this no well-founded objection could be made on any ground, legal, political or moral, since the company only made use of entirely legitimate unpolitical means indirectly to serve a great political end. It would have been able to do much

more than it really did, without exposing itself to any just reproach. Even if its object was not to make a good investment of capital, the capital which had been subscribed—only about \$100,000—it was intended to employ as profitably as possible, and hence it neither recruited emigrants nor sent emigrants to the west, but only gave an impulse to emigration to Kansas, by facilitating the settlement of that territory by means of advantageous agreements with railway companies, the locating of hotels, saw mills, flour mills, etc.<sup>1</sup>

<sup>1</sup>See its answer to the charges made by the Missourians against it, *Congr. Globe*, 1st Sess., 34th Congr., App., p. 151. A Lawrence, the treasurer of the company declared before the Committee of Investigation of the house of representatives: 'No money has been spent for fire arms. The stock of the company has not been an object of speculation though many persons think it will be profitable. Some prefer giving money without taking stock. . . . The number who have gone out is about 1,000, and those who have joined the parties about as many more.

This company never has existed any pledge (with regard to voting) from those going out, all connection with the company ceases on their arrival in the territory. The subscribers to the stock are about 800 and they belong to various political parties. The company never has had any connection with any political party, either directly or indirectly, though its agents have sometimes spoken in political meetings. . . . no question was asked of the agents as to their politics when they were appointed, nor since.' *Rep. of Com., House of Reps. 34th Congr. 1st Sess., Vol. II, No. 200, p. 874.* See also the declaration of the Executive Committee to the people of the United States, *Id.*, p. 879.

Among the directors of the company there were men of such conservative tendencies that they were reckoned among the transmitters of the slavery. One of the directors, a distinguished lawyer called Chapman, said in a public meeting at Springfield: 'I have been accused of being pro-slavery, and I believe many good people think I am quite too conservative on that subject. I take this occasion to say that all the plans and proceedings of the society have met my approbation; and I assert that it has never done a single act with which any political party or the people of any section of the country can justly find fault.

Its stockholders are composed of men of all political parties except Abolitionists. I am not aware that it has received the patron-

That Douglas and the entire northern following of the south, branded this action as an outrageous attack on the interests and constitutional rights of the slave states, and represented all excesses of the Missourians as its inevitable consequences,<sup>1</sup> is the most eloquent evidence that can be brought forward of the corruption of thought and sentiment produced by slavery. Douglas was too wise to permit one to assume that he believed what he said himself; but that he could venture to make use of such reasoning before the people, shows that large circles of them had completely lost the power to distinguish white from black in the slavery question. We have already seen with what brutal frankness the Missourians published their resolutions, and with what audacity they carried out their threats, at a time when they could appeal to nothing but their own sovereign good pleasure.<sup>2</sup> And now they proceeded to new and greater acts of violence without waiting to see whether the efforts of the New England Emigrant Aid Company would meet with success.

age of that class of our fellow citizens, and I am informed that some of them disapprove of its proceedings." *Congr Globe*, 1st Sess., 34th Congr., App. pp. 37, 538.

<sup>1</sup> "From these facts it is apparent that the whole responsibility of all the disturbances in Kansas rests upon the Massachusetts Emigrant Aid Company and its affiliated societies." *Congr Globe*, 1st Sess., 34th Congr., App. p. 288.

<sup>2</sup> According to Stringfellow, they had, as they had understood the Kansas Nebraska bill from the first a legal right to do so. He said, "That was the way we regarded the passage of the Kansas Nebraska bill as by reserving a restriction to introduce southern institutions into Kansas." *Rep. of Comm. House of Reps.*, 34th Congr., 1st Sess., Vol. II, No. 200, p. 92. William Phillips said before the investigating committee of the house of representatives: "He [one McGhee] said that by the passage of the Kansas Nebraska bill there was a fair trade—that the south would get Kansas, and the north Nebraska—and the damned Emigrant Aid society meant to swindle them out of it." *Ib.*, p. 1114.



On the 30th of March, 1855, the elections to the territorial legislature were to take place. A few days before, the *Saint Louis Republican* had expressed the conviction that Kansas, even if the Free Soilers should by accident or fraud win the election, was by its geographical situation and its climatic conditions, insured to slavery.<sup>1</sup> This was in direct contradiction with a great many allegations made on the side of the south, in the debate on the Kansas-Nebraska bill, and the border Missourians preferred to take the care of the interests of the slaveholders into their own hands. The day before the election, the *Western Reporter* announced that its result could be looked forward to with confidence, because Missouri would do its "duty;" during the last four days alone, 2000 men had left the border region for the land of promise.<sup>2</sup>

According to the census which had been taken in February, the territory had 8601 inhabitants, 2905 of whom had the right to vote. It was not questioned that a respectable majority, about three-fifths, of the settlers who had the right to vote, came from the slave states, and on this Stephens and others afterwards based their claim that the result of the election had not been changed by any illegalities which might have occurred. But as there was question not of the election of one person only, it was plainly not sufficient to compare the aggregate number of settlers

<sup>1</sup> "Kansas is bound to be a slave state. It cannot be otherwise—Governor, Bessler and the Emigration And Society to the contrary notwithstanding. We have both the numerical and moral strength to make it so, and if, by accident and fraud, we should now be beaten, the geographical, geological and agricultural character of the country will render it necessarily so. It is suited and adapted only to slave labor. Hemp will be the chief product, if not the staple of the country, and all who have had any experience know that in its cultivation, slave labor is indispensable." *The St. Louis Republican*, March 24, 1855.

<sup>2</sup> Phillips: *The Conquest of Kansas*, pp. 85, 86.



from the the free states with the aggregate number of settlers from the slave states; it was necessary to compare them in every electoral district. The Free Soilers, however, would by no means admit that all the settlers who had come from the slave states, wished to make Kansas a slave state. The fact that a large number of poor whites annually emigrated from the south to the free states, and the history of the slavery question in California, proved that this opinion was not wanting in a real foundation. But be this as it may, the Missourians took part in the election in such numbers and in such a way, that it might be said, without exaggeration, that the legislature had been chosen by them and not by the territorial population.<sup>1</sup> In vehicles and on horseback, they had come over the border, in crowds, to several points, accompanied by provision wagons, with bowie knives and revolvers attached to their belts, or carrying rifles hanging on their shoulders; one division even brought two small cannons with them. The judges of election were compelled to resign by fiercer threats, or else so intimidated that they did not dare to oppose these scandalous doings. Where the intruders found that they had come in unnecessarily large numbers, they divided themselves up into smaller groups and hastened to more distant election places. In the Leavenworth district, the election was spoiled by a speech in which the people from Platte county, Missouri, were exhorted by the speaker to let their associates from Clay county, Missouri, come to

<sup>1</sup> According to the Committee of Investigation of the house of representatives, of the 6307 votes cast, only 1410 were legal. For the candidates of the Free Soil Party, only 791 votes were cast and 79 votes were scattering. The candidates of the Pro-Slavery Party received 5427 votes, almost twice as many as the total population with a right to vote, according to the census, and of these 2305 there were only 561 to be found in the poll-books. Rep. of Comm., House of Repr., 34th Cong., 1st Sess., Vol. II, No. 200, pp. 33, 34.

the ballot boxes first, since the latter had a longer way to go home, an equitable request which was gladly granted.<sup>1</sup> In one crowd was found Atchison, ex-president of the senate of the United States, like the most demoralized border ruffian, with a bowie knife and revolver thrust in his belt. He subsequently asserted that he had not voted, and he may be believed, for he was not so simple as to expose himself to a prosecution before the courts. But what he was too cautious to do himself, he had, according to his own admission, advised others to do,<sup>2</sup> and he must have been well satisfied with the result which his patriotic advice had had. The investigating committee of the house of representatives calculated that about 4000 men had participated in the invasion.<sup>3</sup>

<sup>1</sup>See other details in Pomeroy's memorial, already mentioned Congr. Globe, 1st Sess., 34th Congr., App., pp. 90, 91.

<sup>2</sup>He says, in a speech delivered in Platte City, Missouri, on the 4th of February, 1856: "These men (the emissaries of the Aid Societies) came with the avowed purpose of driving or expelling you from the territory. What did I advise you to do? Why, meet them at their own game. When the first election came off I told you to go over and vote. You did so and beat them. . . . Well, what next? Why an election for members of the legislature to organize the territory must be held. What did I advise you to do then? Why, meet them on their own ground, and beat them at their own game again; and, cold and inclement as the weather was, I went over with a company of men. My object in going was not to vote. I had no right to vote, unless I had disfranchised myself in Missouri. I was not within two miles of a voting place. My object in going was not to vote, but to settle a difficulty between two of our candidates, and the Abolitionists of the north said, and published it abroad, that Atchison was there with bowie knife and revolver, and by God 'twas true. I never did go into that territory. I never intend to go into that territory, without being prepared for all such kind of cattle. Well, we beat them." The N. Y. Times, February 25, 1856.

<sup>3</sup>The *Squatter Sovereign* of April 1, 1855, published the following epistle from Independence, Missouri of March 31: "Several hundred emigrants from Kansas have just entered our city. They were preceded by the Westport and Independence brass bands. They came in

Even without the admissions of Atchison, Stringfellow and others, there would be no doubt that men of reputation and influence were the authors of this monstrous illustration of the "great principles" of non-intervention and popular sovereignty. The affair was too well planned and assumed too colossal dimensions to be sufficiently accounted for by the violence and love of riot of the coarse inhabitants of the border. These were evidently only tools, although very willing tools, in the hands of people of a totally different stamp, and the latter played a game in which entirely consciously, the only thing for which they had any regard was the interest represented by them. Hence, it could no longer be doubted that the doings at the election of territorial delegates and these new acts of violence were only the beginning of endless troubles, unless the prospect of being dragged into the whirlpool of a condition similar to that of Mexico, prevented a reinforcement of settlers from the free states. The *Mobile Register*, with commendable frankness, now announced that the struggle would have to be determined not by protests on paper and wordy resolutions, but by blows;<sup>1</sup> and, according to Stringfellow's testimony, systematic enlistments were now begun

at the west side of the public square, and proceeded entirely around it, the bands cheering us with fine music and the emigrants with good news. Immediately following the bands were about two hundred horsemen in regular order. Following these were one hundred and fifty wagons, cañoneros, etc. They gave repeated cheers for Kansas and Missouri. They report that not an anti-slavery man will learn the legislature of Kansas. We have made a clean sweep." Spite of this Texas had the effrontery to call the whole story of the invasion a "fraudulent afterthought." *Congr. Globe*, 1st sess., 31st Congr., App., p. 115.

<sup>1</sup> "If this is not a fighting question none ever appealed to the most sacred sympathies of the human bosom."

The question is obliged to come to the arbitrament of blows and Kansas is as good a battleground as any other." Printed in the *N. Y. Tribune* of May 11, 1855.

in the entire south to chastise the obstinate whom it had not been possible to teach, by the first two admonitions, that the slavery was in downright earnest with its resolution to get Kansas at any price.<sup>1</sup> What the opponents of slavery had so often spoken of, in figures of rhetoric, was now to be literally fulfilled: the whip of the slave master was cracked over the heads of the free men of the north, and was soon to fall on their shoulders.<sup>2</sup> The question now was not simply, whether negro slavery, in Kansas, should be permitted or prohibited; but the fundamental principle of all political order and all civilized social life was imperilled: it had to be decided whether right and law should still rule the country, or whether the interests of the slavery were above all right and all law. The Free-Soilers in Kansas had no longer only to ward off slavery, but they had their own rights and liberties to defend. The American who has the energy and self-reliance to move into the wilderness of the west, as a pioneer, is not wont to live up to the command to turn the right cheek when he has been slapped on the left. And if the settlers from the free states did not give themselves and their own good cause up, enough people would certainly be found in the latter who, at any risk, would dare to maintain the struggle against the slavery, side by side with them. If the fulfillment of the prophecy of the *Mobile Register* could still be prevented, it could only be

<sup>1</sup> Rep. of Comm., House of Repr., 34th Congr., 1st Sess., Vol. II, No 200, p. 426.

<sup>2</sup> In an appeal of the Republicans of Maine, June 20, 1855, we read: "It is no longer a question whether Africans and their descendants shall be enslaved, but whether the people of the free states shall be the humble servant of the slaveholding oligarchy." Congr. Globe, 34th Congr., p. 86. Douglass on the other hand asked him on the 30th of March, 1856: "Is it necessary that the whole body of white people shall suffer in order that the interests of the negro may be advanced?" Congr. Globe, 1st Sess., 34th Congr., App., p. 286.

on condition that the federal power and its organs opposed the appeals to force of the Missourians, with all its legal and constitutional authority.

Soon after the election, Governor Reeder had reason to visit the east. In Easton, Pennsylvania, he took occasion to express himself publicly on the doings in Kansas, and declared, in plain words, that Kansas had been conquered and subjugated.<sup>1</sup> If this were so, it was evidently his duty to do everything in his power to prevent the elections from having legal effect. The 20th section of the organic law made it his duty to see to the faithful execution of the laws, and he now stated that both the organic law and the right of suffrage had been trampled under foot, in such a manner and to such an extent, that no elections, within the meaning of the law, could be said to have taken place. Further, according to the 22d section of the organic law, it was incumbent on him to declare those persons who had received the highest number of legal votes, in their respective electoral districts, to have been duly elected.<sup>2</sup> But, according to his own statement, the course of the elections rendered it impossible to form any judgment from the poll lists as to who was duly elected. The law, indeed, did not intend to give him the right, and impose the duty on him, to formally test the legality of elections, for although it contains no express provision on the subject, it must be assumed that, even in the case of the first election, the two houses of the legislature themselves, had to determine, in the first place, the validity of the certificates of election. But the granting of election

<sup>1</sup> "It was, indeed too true that Kansas had been invaded, conquered, subjugated by armed forces from beyond her borders, led on by a fanatical spirit, trampling under foot the principles of the Kansas bill and the right of suffrage." *The Washington Union*, May 6, 1855.

<sup>2</sup> Stat. at L., X., pp. 284, 285.

certificates was not a mere form through which the governor had to go without passing any judgment on the question of fact. If there was question not simply of certain illegalities which had presumably not changed the result of the election, if he was convinced, as he had said in Easton, that the whole election had been a mask behind which the most brutal violence was concealed, the refusal of the certificates was not only his right but his legal duty; but if he issued them, spite of his conviction above referred to, he was an accomplice in the fraud and violence, for they became complete only by the issuance of the certificates which were the legal sanction of the election. As he was not an independent official, elected by the popular vote, but one who might at any moment, be dismissed by the president, without any assignment of reasons, he should not be blamed for recoiling from speaking the last word in the matter. But the least he should have done, in the face of these unparalleled proceedings, was to postpone his decision until he had reported to, and received instructions from, Washington. Yet he neither assumed the responsibility fully and completely himself, nor devolved it on the president, but thrust it on the rightful voters in such a manner that he got himself into a troublesome dilemma.

Only those election protests were to receive any attention which were forwarded to him within five days—a term altogether too short, considering the extent of the territory and its means of transportation. While the investigating committee, relying on the testimony of witnesses, declared it probable,<sup>1</sup> that in the council, at least 7 out of 13, and in the house of representatives 14 out of 26, would have been in favor of the prohibition of slavery, if none but rightful voters had voted, only 7

<sup>1</sup> P. 24 of the Report already cited.



protests came in, in time. The 82 elections which had not been formally objected to within the time set, Reeder sanctioned, by the issuance of certificates. That he was moved to do this by force cannot be assumed,<sup>1</sup> since he declared those 7 elections void, and ordered new elections in the districts in which they had been held, although the victors, in their rage, had almost literally held their pistols to his breast, to deter him from thus betraying the slaveholding interest.\* The new elections took place, and Reeder gave the persons elected the legal certificates, but the legislature which met in Pawnee, on the 2d of July, recognized the commission of the men chosen on the 30th

<sup>1</sup> The *N. Y. Herald* published a letter from Brunswick, Missouri dated the 20th of April, 1855, in which we read: "After the election, some one thousand five hundred of the voters sent a committee to Mr. Reeder, to ascertain if it was his purpose to ratify the election. He answered that it was, and said the majority at an election must carry the day. But it is not to be denied that the one thousand five hundred apprehending that the governor might attempt to play the tyrant—since his conduct had already been insidious and unjust—were on their hats bunches of hemp. They were resolved, if a tyrant attempted to trample upon the rights of the sovereign people, to hang him." *Congr. Globe*, 1st Sess., 34th Congt., App., p. 103.

\* Wilson said on the 19th of February, 1856, in the senate: "I will simply say, that Governor Reeder, in the cases brought before him did refuse to deliver the certificates: that he made the refusal in the presence of the men who claimed them, with bowie-knives and revolvers in their belts, and amidst threats of his life, and while he read the statement he held a cocked revolver in his hand for necessary self-defense. There were a few devoted friends around him expecting to see him murdered on that occasion." *Ib.*, p. 92.

"The *Kansas Pioneer* wrote, "We would not like to see the governor dangling in the air by the neck—he will soon be dead—dead dead, without that—merely because we consider him a fair specimen of eastern chivalry and a very fair sample of a Free-soiler, but if he is an abolitionist at heart and in action and would abet in running off darkies into Canada, it might be well enough to place the noose around his neck, by way of experiment to hear him cough and see him make pretty faces." Printed in the *N. Y. Tribune* of April 10, 1855.



of March, without any examination of the matter what ever.<sup>1</sup>

Over a year had passed since the Kansas-Nebraska bill had become a law. The territory had been left all that time without a legislature and without local laws;<sup>2</sup> and now the legislature began to act by disregarding the rightful authority of the governor, and by placing the seal of legality on the violence of the Missourians in its fullest extent. Kansas had a legislature whose legal title, according to a public declaration of its governor, did not depend on the federal laws, but on an unheard-of act of violence of foreign intruders, yet one which the governor himself was obliged to recognize as the legal law-giving power of the territory. The granting of the 32 certificates of election was a step which could not be retraced, and which could not but be attended by the most unhappy consequences. By granting them, Reeder had not only tied his own hands, but he had involved the law-abiding population and the federal authorities in a net, in which right and law became disentangleable knots. His halting, in the beginning, between the two sides, furnished the slaveholding interest with the legal screw with which it crushed out Right, and Pierce's sin of omission turned it so tightly, that congress would have to break it to pieces, if justice were to be done to Right.

In the embarrassment caused him by the invasion of the

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., App. pp. 92, 378.

<sup>2</sup> The Kansas message of the president, of the 24th of January 1856, (Statesman's Manual, III., p. 2129), insinuated that Reeder was to be blamed for this criminal negligence. But if this were so, Pierce had become his own accuser, since the governor was his agent, for whose action or inaction he was responsible. The president was obliged to say when he disapproved the one or the other, and if his disapprobation had no effect, it was his duty to make use of his right of removal.

Missourians, Reeder withdrew behind the authority of the president, but the latter could not, in turn, hide behind the governor. Although Reeder had omitted to ask instructions from the president, before the decision of the question of the election certificates, he had by private letters informed him of the doings at the polls. Pierce, therefore, knew that the election was really no election, and that the men elected could not really be the legislature which, under the organic law, was, with the co-operation of the governor, to exercise the law-giving power in the territory. He was obliged, therefore, to inquire whether, according to the clause of the constitution, which requires him to see to the execution of the laws, it was his duty to afford a remedy here, and what the remedy should be. But Pierce let things take their course. Reeder stated, that, in the conversations he had had with him, in May, the president had fully approved his course, and only regreted, that, in his speech at Easton, he had not handled the Missourians more gently.<sup>1</sup> And in his annual message of December 31, 1855, the president declared that nothing had happened in Kansas which would have justified the interference of the federal executive, although he expressly remarked, at the same time, that the population had a right to ask protection against the meddling of outsiders in the affairs of the territory. According to this, the execution of the federal laws—and therefore of the organic law—had not been prevented by the invasion of the Missourians, for the president said, that in that case, such interference would have been necessary.<sup>2</sup>

<sup>1</sup> Report of the Committee of Investigation, pp. 937, 938.

<sup>2</sup> "In the territory of Kansas there have been acts prejudicial to good order but as yet none have occurred under circumstances to justify the interposition of the federal executive. That could only be in case of obstruction to federal law, or the organized resistance to territorial law, assuming the character of insurrection, which, if it should

The president, therefore, defended his passivity, not by the want of legal power, but by the absence of sufficient cause for action. Hale called attention to the fact that the same president had, recently, sent the United States attorney in Boston an order by telegraph, without any regard to expense to summon the civil authorities and the military in order to enforce the Fugitive Slave Law, and asked whether a fugitive slave really weighed so much more in the scales of the supremacy of law and of justice, than the invading army of illegal voters from Missouri.<sup>1</sup> Indeed, if the tortuous declarations of the message did not mean that the president, spite of the reports of the governor nominated by him, looked upon the entire story of the invasion, as, in the main, a malicious fabrication, it would have been impossible to imagine a more idle excuse for his playing the part of an inactive spectator. The question of power afforded him a much better pretext, although even it afforded him no real protection.

Whatever might have been the powers of the president, so long as the elections had not been perfected, by the certificates of election, the moment these certificates came into the hands of the persons elected, even he was confronted by an accomplished fact, the formal legality of which could not be contested. We cannot discover from what provision of the constitution or of the organic law his right could be deduced now to annul the elections and

occur, it would be my duty promptly to overcome and suppress. I cherish the hope, however, that the occurrence of any such untoward event will be prevented by the sound sense of the people of the territory, who, by its organic law, possessing the right to determine their own domestic institutions, are entitled, while departing themselves peacefully, to the free exercise of that right, and must be protected in the enjoyment of it, without interference on the part of the citizens of any of the states.' *Statesman's Man*, III, p. 2119.

<sup>1</sup> *Congr. Globe*, 1st Sess., 34th Congr., App., p. 104.

to order new ones. It is still more doubtful whether he could have postponed the meeting of the legislature, after Reeder had called it for the 2nd of July. But even if he had not the right to do this, he should not have remained entirely passive. The right and the duty must have been lodged somewhere to see that Kansas got its rights, even after the wrong done it had been formally legalized by the issuance of the certificates of election, and the federal authorities must have been authorized and obliged to apply a remedy, since Kansas, being a territory, was still under federal tutelage. Stephens alleged that the legality of the legislature was a question of law, and had, therefore, to be settled by the courts. But in the celebrated case of *Luther vs. Borden*, the Supreme Court of the United States had decided the analogous question, who was to judge of the legality of a state government, against its own jurisdiction.<sup>1</sup>

Hence only congress remained and its power could not be doubted, since the political existence of the territory depended on congress alone. But as the president was obliged to see to the execution of the laws, it was evidently his duty—when he recognized the fact that the laws had been violated and thought that in this case he did not

<sup>1</sup> Howard's Rep., VII, pp. 38-43; Curtis, XVII, pp. 6-10. In the official condensation of the decisive points, we read: "Upon a question whether a government, which declared martial law, was the duly constituted government of the state, it was held, that the circuit court had not power to try and determine this question, which, so far as the United States was concerned belonged to the political, and not to the judicial power." And so we read in a marginal note to the case decided two years before of *Scott vs. Jones*: "An objection to the validity of a statute founded upon the ground that the legislature which passed it were not competent or duly organized under acts of congress and the constitution, so as to pass valid statutes, is not within the cases enumerated in the twenty-fifth section of the judiciary act, and therefore this court has no jurisdiction over the subject." Congt. Globe, 1st sess., 31st Congr., App., p. 1114.

have the requisite legal authority to enforce them—to submit the matter to congress, which was not in session at the time, as soon as it met, with the demand for immediate relief. Instead of this, he only declared, as we have seen, that the violations of order which had taken place in Kansas would not have authorized any interference on his part and he at the same time strongly sided with the trespassers in the territory, for after the governor had once, with the tacit assent of the president, recognized the legislature, the latter spite of its illegal origin was in contemplation of law the legislature *de facto* and *de jure*, so long as congress had not decreed away its legal existence because of its unlawful origin, and thus, of course taken all legal force from its legislative acts.

Pierce had complained to Reeder, in May, that Kansas left him no peace day or night.<sup>1</sup> That was presumably the justification, in his own mind, of the reproof administered to Reeder on account of his unsparing denunciation of the Missourians. Certain it is that the offence which the sharp language of the governor had given the south was not the only reason which made that denunciation so objectionable to him, although he did not himself at all approve the invasion. Criminations like the Easton speech cast oil upon the flames; but he still held to the hope that he would yet be able to satisfy the slavocracy without intensifying differences or exciting passion still more. The Kansas policy of the president was not a ruthless conspiracy. Pierce was not capable of such a conspiracy, for he had neither the moral depravity nor the

<sup>1</sup> "He stated that this Kansas matter had given him more harassing anxiety than anything that had happened since the loss of his son, that it haunted him day and night and was the great overshadowing trouble of his administration." Report of the Investigating Committee, p. 255.

energy of character which it required. Nothing whatever in that policy was premeditated or irremovably fixed but the resolution not to spoil matters with the slavocracy; as to the rest, it was throughout the product of a contemptible weakness which interfered positively in events only to the extent that it drew itself more and more, through the instrumentality of its first sins of omission, into the wrong path which it had allowed itself to be directed to by the coalition of the slavocracy and the "Nebrascals" of the northern states. After the president had given Kansas a governor who swore by the "great principles" of the Kansas-Nebraska bill, the administration had no policy whatever in respect to Kansas, until the meeting of the the legislature. To look on, wait, impose silence and let things take their course, was its entire wisdom, and its motive was the desire, by its passivity, to regain the peace that had been lost. But the period between the 2d of July and the 31st of December, had been rich in events, and it had heaped proof on proof that this means forced it farther and farther from the wished-for goal. The message, indeed, claimed that the president had, to the very hour of its publication, remained dutifully passive, but the facts had long since given that passivity the character of a positive programme of the most eminently important bearing, from which the administration could not now depart.

Scarcely had the legislature organized, when it resolved to transfer its seat from Pawnee to Shawnee. The cause assigned for this resolution was the want of sufficient accommodation, in the former place, but the real motive was that Shawnee was situated very near the Missouri border.

<sup>1</sup> *Congr. Globe*, 1st Sess., 34th Congr. App. p. 60. W. Phillips writes: "At the session (Shawnee) the legislature were at home, that is, they were nearly so. It was only one mile from the Missouri



Reeder vetoed the bill providing for the removal of the legislative seat, but it was unanimously passed over his veto in one house, and in the other, with only one dissenting voice. On the 6th of July, the legislators dispersed and met again on the 16th, in Shawnee. The first bill which they passed there was returned by Reeder, on the 21st of July, with the statement that the legislature was not authorized to remove to Shawnee and that, therefore, everything which it had done there was illegal *ab initio* and did not have the force of law. Spite of this objection, that body continued its legislative action, but requested the supreme court of the territory to give its opinion on the question in dispute. The supreme court of the territory expressed its desire to grant the request on account of the great importance of the question, although the matter was *coram non judice*, and gave an opinion unconditionally in favor of the claim of the legislature, because there was no want of precedents to show that legislative assemblies had temporarily changed their seat, and because, as congress had by law of March 3, 1855, recognized the right of the legislature to determine, by statute, the permanent seat of the government, it could also determine the temporary one, since the greater included the less.<sup>1</sup>

This reasoning was not without weight, but there was no lack of opposing reasons of which the same might be said. The instance cited of the removal of the congress from Philadelphia to Lancaster, during the revolutionary war, was no precedent, first, because the congress had

line, and four miles from Westport. Hacks left the mission every evening on the adjournment, taking the members to Westport, and brought them back next morning." *The Conquest of Kansas*, p. 101.

<sup>1</sup> The opinion is to be found in full in the *Congr. Globe*, 1st Sess., 34th Congr., p. 456-458.



acted under the pressure of a war necessity, and secondly because the politico-legal nature of the congress and that of the territorial legislature were of a very different kind. The question could not be decided at all by general principles. Whatever theory might require, or whatever other legislative bodies might have done unchallenged, the only question here was whether the legislature of Kansas, according to the organic law, the only source of all its powers, had a right to take the action it had taken. The wording of the law afforded no undoubted answer to this, and hence further inquiry, as to the intention of the legislator, was necessary. But of this, the principle that the greater includes the less, a principle of by no means unlimited application, was not, without any more ado, to be looked on as decisive. It was much more pertinent to reason as follows: Since the governor was to decide the time and place of the meeting of the first legislature, and since the organic law itself had selected Leavenworth as the temporary seat of government, it was the intention of congress that the discretion of the legislature should be limited to the determination by statute of the permanent seat of government.<sup>1</sup> But even if the legislature had taken its resolve for real and valid reasons, congress would, nevertheless, in all probability, have questioned its power as little as it had, at another time, objected to the removal by the territorial legislature of Oregon of the seat of government from Oregon City to Portland. The question of law was raised only because the removal was intended to serve political ends, and as the will of the legislator could not be determined with certainty, the answer given it was made to depend on the judgment passed on these political ends. Hence it was certain from

<sup>1</sup> See Reader's refutation of the judicial opinion cited Cong. Globe, 1st Sess., 34th Cong., App. pp. 146, 147.

the first that the legislature would remain the victor, in the struggle with the governor, for it represented the slaveholding interest, and this determined the position of the president on the question.

Since Reeder looked upon the removal to Shawnee as illegal, the gentlemen there assembled were, in his eyes, only the chosen members of the legislature, but not the legislature of the territory, and he, therefore, refused to have any official intercourse with them as such. Their answer to this was a petition to the president to remove the governor from office.<sup>1</sup> As Pierce had already informed Reeder, in May, that the disappointed slaveryocracy impatiently demanded his removal, the latter could not be surprised that he now yielded to this new pressure. Reeder had, however, reason to assume that his removal would take place, in some other form. Pierce had, in the beginning, acted very considerately, consulted with Reeder long to find how he could adequately compensate him, and held out a prospect to him of the ambassadorship to China. Now, the fact that he belonged to a company which, saving the assent of the federal government, contemplated the purchase of Indian lands, furnished a pretext for his discharge on account of alleged questionable and illegal speculation in land. On the 10th of August, Wilson Shannon, of Ohio, was nominated his successor.

What was to be expected from Shannon might be inferred from the fact that he accepted, with thanks, the solemn reception tendered him, in Westport, Missouri, the headquarters of the Border Ruffians. On this occasion, he made a speech in which, according to the *Missouri Democrat*, he asked the Missourians for their support, and in which, he, in plain words expressed himself in

<sup>1</sup> Sen. Rep., 1st Sess., 34th Congr., No. 109, Vol. 11, p. 17.

favor of making Kansas a slave state.<sup>1</sup> The slaveryocracy might believe that, this time, Pierce had made no mistake, and they could hope so all the more confidently, as Shannon, unlike Reeder, was not a man with a will and ambition of his own, but a weak, third-rate politician, with no independence in thought or action.

When the new governor who took the oath of office, on the 7th of September, came into the territory, the legislature had already adjourned.<sup>2</sup> But short as the session had been, great things had been accomplished by it, both in quantity and quality. The laws passed, in a few weeks, make so large a volume<sup>3</sup> that it seems inconceivable, at first glance, how, with even the most superficial attention, this piece of labor could have been accomplished, in so short a time. A little closer examination, however, readily explains the enigma. The laws of Missouri were bodily adopted and in such a hurry, that, in the printing, the word "territory" was not everywhere substituted for the word "state," and it had subsequently to be provided that this should be done. The gentlemen had accorded themselves more time, where there was question of taking care of their own interests, by the granting of valuable charters and other things of the same kind.<sup>4</sup> Their

<sup>1</sup> "He thought, with reference to slavery, that as Missouri and Kansas were adjoining states, it would be well if their institutions should harmonize, otherwise there would be continual quarrels and border troubles. He was for slavery in Kansas. (loud cheers)" quoted by Phillips, *Conquest of Kansas*, p. 118. It is said that Shannon afterwards declared the report to be inaccurate but it may not without being so considered as in the main true.

<sup>2</sup> On the 20th of August.

<sup>3</sup> 524 pages.

<sup>4</sup> See, for example, on the 21st of June 1854, in the house of representatives of this part of the "Laws of the Territory of Kansas."

A new volume will turn to the exceeding portion of this code of laws. you will find one hundred and forty pages of it, over one-sixth

labors of course were devoted chiefly to slavery and to all that was connected with slavery, and their achievements in this domain, surpassed everything that could have been expected, even from a legislature with such an origin. In reading them, one has to rub his eyes to convince himself that he is not dreaming, for it seems impossible to imagine that, in the second half of the nineteenth century, such Hunnic laws can have been passed, in the democratic republic of the United States.

So far as the great constitutional question at issue was concerned, it was of decisive importance that no law introduced slavery or expressly permitted it, but all the laws relating to it started out with the assumption, that it already legally existed in the territory. Hence the principle of "popular sovereignty," as it had been interpreted by Douglas, Cass and other northern Democrats, was rejected by the legislature. It assumed the extreme southern point of view, in accordance with which the slaveholders, independently of the constitution, had the right to go with their slaves into the territories, and this right was, during the territorial condition, simply inviolable. The handful of obscurantists whom the washed and unwashed rabble of the border counties of Missouri had

of the whole, devoted to corporations, shingled in profusion over the whole territory, granting charters for railroads, insurance companies, toll bridges, ferries, universities, mining companies, plank roads and, in fact, all kinds of charters that are of value to their recipients, and more, indeed, than will be needed there for many years. No less than four or five hundred persons (not counting one hundred territorial road commissioners) have been thus incorporated, and have been made the recipients of the bounty of that legislation of Kansas making a great portion, if not all of them, interested advocates to sustain the legality of those laws now in dispute before the American people." *Congr. Globe*, 1st Sess. 34th Congr., App. p. 642. Chief Justice Lecompte the author of the judicial opinion referred to was richly remembered in the division of the spoils.

made into a legislature for Kansas, had cut the Gordian knot of the "great principle" of the Kansas-Nebraska bill, and woe to him who dared to lift even a finger against their decision. Any one who, orally or in writing, claimed that slavery did not legally exist in the territory, or who circulated any production of the press in which that heresy was preached, was to be punished by imprisonment at hard labor, for not less than two years.<sup>1</sup> The like penalty was increased to not less than five years, in the case of a person who did anything calculated to make slaves dissatisfied or refractory, or to induce them to escape.<sup>2</sup> A person sentenced to imprisonment at hard labor and who was set at work outside of the prison walls, was to drag, attached to his ankle, a chain six feet long, with links from one-quarter to three-eighths of an inch thick, and ending in a ball from four to six inches in diameter; but the prison-keeper might add more chains to this.<sup>3</sup> Anyone who persuaded a slave to escape, or aided him in his flight, was to be sentenced to at least ten years imprisonment at hard labor or to suffer the death penalty,<sup>4</sup> while the abduction of a white child was punished with the same kind of imprisonment for only from six months to five years,<sup>5</sup> rape for not less than five years<sup>6</sup> and attempted poisoning, from five to ten years.<sup>7</sup>

These laws drew from Clayton, senator from the slave state of Delaware, the indignant remark, that, under them, even John C. Calhoun would not be safe from the house

<sup>1</sup> Sen. Doc. 1st and 2nd Sess., 34th Congr., Vol. XI, No. 23, *Laws of the Territory of Kansas*, p. 373.

<sup>2</sup> *Ib.* p. 663.

<sup>3</sup> *Ib.* p. 147.

<sup>4</sup> *Ib.* p. 664.

<sup>5</sup> *Ib.* p. 210.

<sup>6</sup> *Ib.* p. 210.

<sup>7</sup> *Ib.* p. 209.

of correction.<sup>1</sup> But the north which had fallen a victim to fanaticism was so near to little Delaware that Clayton became quickly sicklied over with the pale cast of thought. Jones of Tennessee said that all slave states had such laws, and expressed the opinion, that the scoundrels against whom they were directed should not be sent to the house of correction but hanged;<sup>2</sup> so far as the former was concerned, Stringfellow fully agreed with Jones. He stated with satisfaction that the laws of Kansas were more effectual for the protection of slave property than those of any other state, and he expressed his firm conviction that they would be enforced with unrelenting severity.<sup>3</sup> If this expectation were not fulfilled, the slaveholders should certainly not blame the legislators for it. What they could do to put the scales and the sword of justice into trusty hands, they had honestly done. They had provided that every attorney and every other official who should be chosen or appointed under any of the existing laws or under any law to be passed in the future, should take an oath to support the Kansas-Nebraska Act and the Fugitive Slave Law.<sup>4</sup> And even this, they did not look upon as a sufficient guarantee. They had at the same time provided that no one who questioned the jurisdiction of the territorial courts over slavery, or who had conscientious scruples against the owning of slaves, should act as juror in a case in which the right of a person to keep slaves was involved, in which there was question of damage done by a slave, or

<sup>1</sup> Congr. Globe, 2d Sess., 34th Congr., p. 41.

<sup>2</sup> "Sir I would make the law which the senator quoted a little different. Instead of making it a penitentiary offence I would hang the wretch until he was dead, dead, dead!" Congr. Globe, 1st Sess., 34th Congr., App., p. 101.

<sup>3</sup> *Ib.* p. 147.

<sup>4</sup> Laws of Kansas, pp. 119 and 438.

affecting a slave.<sup>1</sup> This was evidently unconstitutional, since the constitution guaranteed every person accused an "impartial" trial and it was equally certain that it was a violation of the organic law to require from all officials a special political test oath, while that law required only an oath to support the constitution from them.<sup>2</sup> But who cared for this, where the "peculiar institution" was to be made safe? The laws were simply necessary, and, because they were necessary, no one objected to make it impossible for the opponents of them, by other laws which ran directly counter to the organic law, to break their iron yoke or even to touch it.<sup>3</sup>

As the new elections to the Council, the upper house of the legislature, were not to take place until the first of October, 1857,<sup>4</sup> the people had, during the two following years, no possibility, by making known their will, to compel the repeal of these scandalous laws. But two years might prove too short a time for the complete disappearance of the opposition.<sup>5</sup> The legislature of 1858 likewise had been made sure of, by excluding the Free Soilers from

<sup>1</sup> *Ib.*, p. 378.

<sup>2</sup> The wording of the first proviso of the 21st section (Stat. at L., X., p. 285) leaves it doubtful whether only those who were not yet citizens of the United States were obliged to take an oath to support the organic law also, or whether in general the exercise of the right of suffrage and the right to hold office were made dependent thereon. The former is in my opinion the correct interpretation. But in any case, the "organic law" had nothing to say of an oath to support the Fugitive Slave Law.

<sup>3</sup> Colfax endeavored to show 5 violations of the constitution and 7 violations of the "organic law." *Congr. Globe*, 1st Sess., 34th Congr., App., pp. 643-645.

<sup>4</sup> *Laws of Kansas*, p. 280.

<sup>5</sup> See Wilson's remarks as to how this was made the personal affair of individuals, by the laws on local offices which, in the most effectual way, denied the people "the right to elect even a constable." *Congr. Globe*, 2d Sess., 34th Congr., pp. 40, 41.



it, by the simple means of requiring from the members of both houses and from all officials an oath to support the "organic law" and the Fugitive Slave Law. And even this, was not considered a sufficient guarantee. The "organic law" had granted the right of suffrage even to immigrants who had reached their majority and who had declared their intention, in the manner prescribed by law, to become citizens of the United States. The legislature now limited it to citizens of the United States who were inhabitants of the territory;<sup>1</sup> that is, on the one hand, it took away the right of suffrage from a great many presumptive opponents of slavery and, on the other, it constructed a highway for new invasions of border ruffians, since no provision as to time followed the word inhabitants. A Missourian who, the night before the election, had slept on Kansas ground, claimed to be an inhabitant, and if he handed in ever so small a tax,<sup>2</sup> there was no obstacle to his casting his vote. But the person who had become guilty of a violation of the Fugitive Slave Law lost his vote and the Free Soiler whose vote was challenged was likewise disfranchised, unless he took an oath to support the Fugitive Slave Law. The crowning measure of all to subjugate the opposition, to fetter and to gag it, was the provision, that, after the 1st of November, 1856, voting at elections should be *enra voce*, a provision which opened the door wide to the most brutal terrorization.<sup>3</sup>

The Free Soilers needed to defend themselves bravely, if they did not wish to play the part of sheep led to the slaughter, and this not figuratively but literally. It repeatedly happened that persons who had made themselves especially disagreeable, were maltreated, in a brutal way,

<sup>1</sup> Laws of Kansas, p. 382.

<sup>2</sup> The poll tax of one dollar was sufficient.

<sup>3</sup> Laws of Kansas, p. 266.

and, sometimes, their life hung upon only a single thread. The first blood was soon drawn, but it was the blood of a pro-slavery man; he had made the attack, and a bullet from a revolver prostrated him while he was fetching a second blow with his cudgel. Thus people dared to defend themselves, although the Border Ruffian press informed all heretics, that every imaginable terror, from the tar barrel to the hempen rope awaited them.<sup>1</sup> The execution of the threat was not quite as easy as these gentlemen expected. They did not act wisely in undervaluing their opponents, and that they had underestimated their opponents' courage, they might have inferred from the fact that the Free Soilers, immediately after the election of the 30th of March, began to organize, in a military way.<sup>2</sup>

When the politicians who defended the Border Ruffians subsequently endeavored to stamp this as the beginning of a revolutionary resistance to the legal authorities, they entirely distorted the facts. The idea of putting an end, by force, to the reign of terror never occurred to the great majority of the Free Soilers, and was not conceived, at the time, by the more radical minority as a possibility, and when it was, several months later, given public expression

<sup>1</sup> "Kansas deprived of the benefits heretofore received from her Southern allies will prove an easy prey to these rascals, the threat of the South. It is worse, the more, faster the better, that it is a capital crime, with a terrible long term to imprisonment. We can tell the important advocates of the Proslavery that they may either go down as well as their emigrants and settlers upon their property and persons. Their representatives in Congress shall then be asked to prepare the laws, and the Executive Franklin Pierce shall not be against the Free Soilers as we previously said we will endeavor to do far and better than ever, and we shall have a new President who will be a proslavery man. The Kansas bill, Aug. 18 1855.

<sup>2</sup> See the Circulars of the Kansas Committee, the Kansas Standard and the Kansas Herald. The Kansas Standard, Kansas Herald, April 18 1855. The Kansas Herald, April 18 1855.

to, by the latter, it was only as notice that they would prefer a terrible end to this endless terror.<sup>1</sup> The Free Soilers knew that the bowie-knives and revolvers, in the belts of their oppressors, were not intended simply for purposes of ornament, and hence they took steps to be able to answer them, in a becoming manner, when the latter began to make use of these arguments. This was no provocation, but the only means that, perhaps, could prevent the pro-slavery party from going to the utmost extreme. To impute aggressive intentions to the Free Soilers was to deny them common sense, for their fanaticism was evidently not of the kind to make them long for martyrdom. Their moral and political views on an appeal to the *ultima ratio*, did not come into consideration at all; circumstances compelled them not to cease acting on the defensive, and least of all could they think of rising up armed against the governmental authorities, so long as they had some other choice. But they did not intend to bow without resistance to accomplished facts, and did not believe that they should rest satisfied with paper protests and wordy resolutions. If they did not wish to plead their case with powder and lead and steel, they nevertheless, made preparations, with great determination to oppose deeds by deeds. The possibility, with any prospect of success, of seeking for redress, in the usual legal way, was

<sup>1</sup> Reeder said in the convention at Big Springs the menacing resolutions of which will be cited later: "But if, at last, all these (peaceable remedies) should fail—if in the proper tribunals, there is no hope for our dearest rights, outraged and profaned, if we are still to suffer that corrupt men may reap harvests watered by our tears, then there is one more chance for justice. God has provided, in the eternal frame of things, redress for every wrong: and there remains to us still the steady eye and the strong arm, and we must conquer, or mingle the bodies of the oppressors with those of the oppressed upon the soil which the Declaration of Independence no longer protects." Congr. Globe, 1st sess. 44th Congr., App., p. 285.

taken from them with finished cunning by the legislature. But if on this account they did not go the road pointed out to them by the laws, they none the less wished to use only peaceable means. They did not need to seek such means long, for the state-forming genius of the American people had been already frequently confronted by the task of doing justice to the urgent demands of actual circumstances in critical situations and independent of the laws: and although these cases had, in essential respects, been of a different kind from the present, that which in them had led to the desired end, might well be tried here too. As their rights had been turned into wrongs the injured were forced to help themselves by really falling back on "popular sovereignty," without authority of the law, but acting, as they alleged, in the spirit which had dictated the organic law.

A mass meeting of settlers, in Lawrence, held on the 15th of August, called on all citizens of Kansas without distinction of political views, to choose, in the election districts established by Reeder in his proclamation of the 10th of March, in mass meetings or in some other way, three delegates to an assembly of delegates to be held at Topeka, on the 19th of September, who should deliberate and decide on all matters of common concern and especially on the drafting of a state constitution and on the immediate application for admission of Kansas, as a state, into the Union. Entirely independently of this meeting in Lawrence another was held, on the 6th of September, at Big Springs, which did not contemplate common action of all law-abiding and order-loving citizens, but which bore a strictly party character. Even if it was the beginning of the organization of a Free State party, this movement was not in opposition to that held at Lawrence, but it was undoubtedly, from the first, part of a plan to annihilate

gamate it as far as possible with the former. Reeder was nominated delegate to congress, and the jurisdiction of the legislature contested—two steps the first of which in itself and the second because of its connection with the first were of very doubtful political wisdom. The great cause could scarcely be served by selecting as its leader a man whom its opponents did not call by the honorable title of a convert but branded as an apostate; it mattered not how honest his conversion might be, he had originally consented to serve them as a tool, and he was now at least exposed to the suspicion, that he had been determined more or less by personal spite to take up this new role. And if, as happened, the claim that the legislature was an assembly of usurpers without any legal power,<sup>1</sup> was based on the history of the elections and not on the unauthorized transfer of its seat to Shawnee, Reeder least of all should have been chosen as the representative of that view, since he had helped the usurpers to a formal legal title. It might be very pardonable that at Big Springs these two things were not sufficiently appreciated, but the situation of the Free Soilers was so difficult a one, that the smallest mistake and the least indiscretion would bring their own punishment with them. And in their just anger at the injustice they had received they allowed themselves to take still another step which was not merely a mistake or an indiscretion, but which must be called by a harder name. Here in Big Springs—but only here and not, as Douglas afterwards represented in his report, in Lawrence and Topeka also,—was the threat made that they would

<sup>1</sup> Resolved, That we owe no allegiance of obedience to the tyrannical enactments of this spurious legislature, that their laws have no validity or binding force upon the people of Kansas, and that every freeman among us is at full liberty, consistently with his obligations as a citizen and a man, to defy and resist them if he chooses so to do."

at last have recourse to force, if they could not prevent violence in a peaceful way.<sup>1</sup> Morally this might have been fully warranted, but in the eye of the law it was the announcement of a contingent revolution.

On the appointed day, the meeting of delegates was held at Topeka, and it prescribed elections to a constitutional convention, to take place on the 9th of October. Before the latter met, on the 1st of October, the election of a delegate to congress, in accordance with a law passed in Shawnee, was held. Whittfield, the candidate of the pro-slavery men, was elected without opposition, as the Free Soilers took no part in the election, that they might not, even in this indirect way, recognize the jurisdiction of the legislature. Without having any legal foundation under their feet, relying solely on the principle of "popular sovereignty," they voted on the day of the elections to the constitutional convention for Reeder, as a delegate to congress.<sup>2</sup> The constitutional convention met on the 23rd of October in Topeka, chose J. H. Lane as its chairman and closed its labors, on the 11th of November. The draft of the constitution<sup>3</sup> which was submitted to the vote of the people on the 15th of December, and which was to be sent to congress, accompanied by a memorial,<sup>4</sup> pro-

<sup>1</sup> "Resolved, That we will endure and submit to these laws no longer than the best interests of the territory require, as the last of two evils, and will resist them to a bloody issue as soon as we ascertain that peaceable remedies shall fail, and forcible resistance shall furnish any reasonable prospect of success, and that, in the meantime, we recommend to our friends throughout the territory, the organization and discipline of volunteer companies, and the procurement and preparation of arms."

<sup>2</sup> According to Grow of Pennsylvania, there were 2800 votes cast at this election, almost as many as the number of legal voters the territory had when the census was taken. Congr. Globe, 1st Sess., 34th Cong., App., p. 730.

<sup>3</sup> Report of the Investigating Committee, pp. 617-632.

<sup>4</sup> *Ib.*, pp. 632-637.



hibited slavery,<sup>1</sup> and forbade the settlement of free persons of color in the state. For this last provision, several deputies had voted, not so much from prejudice against the negro, as because they wished to prove, in this manner that the Free-Soilers were not abolitionists.

How all these steps which culminated in the petition for the admission of Kansas as a state, under the Topeka constitution, were, from a constitutional point of view, to be judged, there could be no doubt. It mattered not how the controversy over the jurisdiction of the legislature and the validity of the laws passed by it, might be decided, these steps were, in no case, legal, but in no case, contrary to law: the whole movement was extra-legal. For what had thus far happened, no participant in the movement could be held responsible before a court of justice; nor did the movement in the least affect the question, whether the Shawnee laws had any force, and whether they should be obeyed. Hence congress was not compelled to decide this question, in order to dispose of the petition for admission of Kansas into the Union as a state; and so far as that admission was concerned, it was hampered, in no way, by the constitution or the laws, but might come to a decision solely on grounds of expediency and justice. The action of the Free-Soilers was unquestionably irregular, since neither congress nor the president nor any factor of the territorial government, had had any part in it. But California and especially Michigan had not proceeded in a regular manner, in the drafting and adoption of their respective state constitutions, and yet congress had admitted them. But these were not exactly analogous cases. The advocates of the Topeka constitution, in congress, wanted to prove too much, when they claimed that Michi-

<sup>1</sup> Slaves already in the territory might, however, be held in it until the 4th of July, 1857.



gan lost sight of the laws and all legal authority as absolutely as the Free-Soilers of Kansas, when it cast off the cocoon of its territorial condition and transformed itself into a state. But why was a precedent, similar in every respect, needed? It was certain that congress had repeatedly sanctioned deviations from the regular way, and it was questioned in no quarter that it had the power to do so. How far it would push the limits of these deviations depended on itself alone, and if it did not wish to be guided by a model given it by the past, but to act in a really statesmanlike manner, it had to allow itself to be controlled by special considerations in each concrete case. But would it have been really expedient, equitable and just to overlook all irregularities in this case, and to admit Kansas as a state, under the Topeka constitution?

The meeting of the 15th of August, in Lawrence, had acted in good faith, when it called on all citizens, without distinction of political views, to participate in the movement inaugurated by it. Not Free-Soilers alone were its originators, and the prohibition of slavery was not its exclusive and chief object. The forced supremacy of the Missourians had to be destroyed, and it was thought that this end could be most easily and most surely attained, by immediately making the territory a state. If this were done, the question of the jurisdiction of the legislature would become simply an academic question which might be left undecided without any danger. The most objectionable provisions of the Shawnee laws fell into desuetude of themselves, and where this was not the case, it had become possible to secure redress without delay, in a legal manner. The transformation of the territory into a state would, of itself, have afforded no guarantee against new invasions of the Missourians; but, in the first place, the state could protect itself much more effectually against

such invasions than the territory, for the reason that the maintenance of order and the execution of the laws would depend no longer on the creatures of the administration from whom, from time to time, at least, partisan inaction was to be expected; and, in the second place, and above all, the Missourians would no longer have had sufficient interest in the elections to raise new armies of invasion, since the great question, out of which all the trouble had sprung, would have already found its final decision in the constitution. On this very account, however, the attempt to make Kansas a state, in this irregular way, could not but fail. It was impossible in the drafting of a state constitution to leave the slavery question out of consideration, and the calling on all citizens to participate in the election of delegates to the extra-legal Topeka convention could meet with no success. Even if the convention originally was not the representation of a party, it would have to become such, and it therefore could not accomplish its object. Congress might perhaps have been induced to overlook the irregularity in itself, since, by the admission of Kansas as a state, it would have been relieved of the necessity of taking a position on the question of the jurisdiction of the legislature. But it had to decide not only whether it would admit Kansas as a state, spite of the sparseness of its population and the irregularity of its entire course, but whether it should be admitted with the Topeka constitution, that is, as a free state. But there not only was no question, that, under the circumstances which prevailed, congress would never agree to this, but it is incontestable that by doing so it would have acted against the spirit of the "organic law," and even leaving the latter out of consideration, would have become guilty of a great injustice. Not only the "organic law," but the fundamental idea of American nationality, absolutely

demanding that the constitution should be the work of the population in its entirety, and not merely the one-sided production of a party, which in addition to its being no more than a party, acted entirely outside the law. If congress wanted to entertain the idea at all of trying to solve the Kansas problem by the immediate transformation of the territory into a state, it was obliged to take care that the election of delegates by the entire population to a constitutional convention should take place, in an orderly manner, and it should, at the same time, have prevented all interference anew by the Missourians. But this was not easy, for the matter had already proceeded in such a way that congress was in a dilemma, and before the affair came up for congressional action, it had proceeded a good deal farther.

A Free Soiler of the name of Dow was maliciously shot, at the end of November, by a neighbor called Coleman, in consequence of a quarrel over a piece of land. The real cause of the quarrel was the political enmity of the two men, and hence the party associates of the criminal espoused his cause. While the murderer who had fled to Westport was given to understand that he could surrender himself to the authorities without any fear, a warrant from a justice of the peace was obtained for the arrest of one Branson, with whom young Dow had lived. One of the two friends of Coleman who had taken part in the quarrel which ended in such a fatal manner, and who had been eye witnesses of the murder, furnished the pretext for the issue of this warrant, by stating that he had been credibly informed that Branson had threatened to avenge the blood of his murdered friend on him. Jones, the sheriff of Douglas County, who lived in Westport, Missouri, summoned a *posse comitatus*, and in the middle of the night surprised Branson, compelled him immediately to ride

with him, without even informing him or his weeping family, whither he intended to take him. But the sheriff and his *posse* delayed so long, in the houses of pro-slavery men along their road, to invigorate themselves for their mighty ride, that it was possible to alarm the Free Soilers in the vicinity, in order to wrest his victim from him. About equal in number, the Free Soilers intercepted the sheriff and his *posse*, and he finally left them his prisoner, after he had failed to induce them to recognize his legal authority by his remonstrances and his threats; he and his *posse* did not consider it advisable to make use of arms to guard Branson, who rode with his rescuers to Lawrence, the principal seat of the Free Soil party.

This episode, insignificant in itself, became a great national question of eminent importance, by the fact that governor Shannon allowed himself to be misled by the revenge-thirsty sheriff into making it the occasion for a decisive blow against the entire Free Soil party, swelling this act of a handful of individuals into a rebellion which imperilled the supremacy of the law in the territory. Here the laboring mountain did not bring forth a mouse, but a mouse was pulled up to the dimensions of a laboring mountain. The unpremeditated nocturnal adventure of Branson's 14 rescuers, who grew to 40, under Jones's pen, was transformed into an "open rebellion," for the suppression of which, Jones asked the governor for 3000 men.<sup>1</sup> Shannon stated that the organization of the territorial militia had not yet progressed beyond the nomination of a few generals by the legislature, but, as he recognized the fact of the "open rebellion," he ordered "generals" Richardson and Stricklar, on the same day (November 27), to

<sup>1</sup> "You may consider an open rebellion as having already commenced and I call upon you for three thousand men, to carry out the laws."

place themselves at the disposal of the sheriff, with all the men they could raise. He designated Lawrence as the hot-bed of the rebellion, in which there was an armed force resolved not to permit the sheriff to execute any order of court. A meeting held on the morning of the same day, in consequence of Branson's arrest and rescue, had indeed passed such a resolution. In the afternoon, however, the citizens of Lawrence met, and more moderate counsels prevailed. All agreed that the officers appointed by the Shawnee legislature had no authority whatever, but they did not wish to go beyond acting on the defensive. They declined to make Branson's cause Lawrence's cause, and left it to each individual to decide what he would do, when one of these "bogus" officers laid hands on him. But they did not want to let the city be held responsible for what this man or that who shared the political opinions of the population, had done. But this was evidently the intention of Shannon, Jones and Company, and it was therefore resolved, by the people of Lawrence, to place themselves in a defensive position, while they requested Branson and his rescuers to leave the place, in order to deprive their opponents of every pretext to carry out their intentions. A committee of safety was appointed, at the head of which Dr. Robinson a circumspect and clear sighted man was placed. The immediate command of the home guard was confided to colonel Lane, who had proved himself a meritorious officer in the Mexican war, but who was more distinguished for trenchant courage than for discretion, and who, like Reeder, had too much of the professional politician in him.

Lawrence was not even yet in "open rebellion," for it had not offered actual resistance to any officer, but only resolved to defend itself against unjust attacks. Even if Shannon's view of the Shawnee laws and of the officials

appointed by the legislature were recognized as correct, still Branson's liberators and a few persons unknown, by whom Coleman's and one of his friend's lodgings had been reduced to ashes,<sup>1</sup> were the only law-breakers whom the authorities were obliged to lay hold of. But Shannon played the comedy of rebellion with such fiery zeal that the silly farce soon threatened to turn into a bloody tragedy. On the 29th of November, he issued a proclamation in which he called upon all well-minded citizens to come together, in order to maintain the supremacy of the laws and support sheriff Jones. The day before, he had reported to the president by letter. But the pay took its course with mysterious rapidity, without any regard for the time the mail required to travel from Kansas to Washington and from there back to Kansas. On the 1st of December, the letter was outreached by an alarm telegraphic message of the governor. It fabled 1000 men in Lawrence provided with all the implements of war, requested permission to make use of the regular troops and closed with the statement that only by the interference of the latter could the shedding of blood be prevented. Shannon thought that he could not even wait for an answer, by wire, to this dispatch: he urgently requested colonel Sumner to hasten with his soldiers to his aid without delay, from Fort Leavenworth.

It had, indeed, become highly probable that blood would soon flow freely, if the military did not appear upon the stage, but not as Shannon intended, according to the dispatch of December 1, to terrify the rebels in Lawrence into submission, but to take a position between the parties

<sup>1</sup>The Free Soilers condemned the act and claimed that it had been committed by their enemies in order to make political capital out of it.



and to keep the avengers of "law and order!" in check. That it had come to this, within a few days, was owing solely to the blind zeal of the governor, of which it is difficult to say, to what extent it had its origin in his subserviency to the pro-slavery party, or in honest stupidity. This colonel Sumner gave the incompetent governor plainly to understand. The refusal to grant his request without the order of the president, colonel Sumner accompanied with the emphatic advice to desist from the attempt to settle the matter by the militia, until an answer had been received from Washington.<sup>2</sup> Whether Shannon was still in a situation to follow this counsel must be considered as at least very doubtful; but it is certain that he could have done nothing more ill-advised than to call out the militia, if he was really concerned to maintain law and order.

In a letter of the 11th of December, to the president, Shannon states that Richardson had got together only from 300 to 400 men. If Lawrence was to be reduced by arms, this force was, indeed, presumably insufficient, and the attempt would never have been made with it, for the most exaggerated notions of the resisting capacity of the detested town were entertained. It had perhaps been expected that the official proclamation of the danger the country was in would move a greater number to have recourse to arms to save it, but it evidently was not believed it could be confidently calculated that a sufficient number would answer the call of the governor. The border counties of the neighboring state were now to supply the Kansas militia as they had already repeatedly

<sup>1</sup> The pro-slavery party in the territory and their confederates now called themselves "the law and order party."

<sup>2</sup> "I would respectfully suggest that you make your application for aid to the government extensively known at once, and I would countermand any orders that may have been given to the movement of the militia until you receive the answer."



furnished Kansas voters. The assertion that this happened with Shannon's consent and knowledge cannot be documentarily proved, but his Westport speech makes it at least probable that it was well founded. That other high territorial officials took prominent part in the endeavor to put the weal or woe of the territory into the hands of the Missourians is certain, and it is just as certain that they pretended to act in unison with the governor.<sup>1</sup>

The result was a brilliant one. Small bodies of troops set out, and stirred up the more dilatory by despatches to hasten to them, that they might be able to go to work; they had to decide now and the hope of a real battle could be disappointed no longer.<sup>2</sup> The more well-to-do raised large sums to cover the costs of war, and many a barrel of whiskey flowed to heighten the holiday feeling which had taken possession of the entire border population. To restore the supremacy of the law and re-establish peace, one hundred Missourians after another moved into Kansas, where they had no more right to make themselves guardians of law and order than they had in Boston or New Orleans; to insure the public peace and avenge the law which had been insulted, they broke, under the leadership of "captain" Price and judge J. T. V. Thompson, into the United States arsenal, in Liberty, Missouri, and

<sup>1</sup> In Independence, Missouri, the following circular was distributed on the 24 of December: "An express, in at 10 o'clock last night, says all the volunteers, ammunition, etc., that can be raised will be needed. The express was forwarded by Gov. Shannon to Col Woodson, and by Woodson to this place, to be transmitted to various parts of the county. Call a meeting, and do everything you can.

DRA. McMURRY AND HENRY "

Phillips. *The Conquest of Kansas*, p. 166. Woodson was the secretary of the treasury.

<sup>2</sup> See *ib.* pp. 167-168.

robbed it of ammunition, side-arms, pistols, muskets and three six-pounders;<sup>1</sup> and that they might guard the majesty of the law, Shannon ranged the Kansas militia side by side with those lawless bands to do which he had no more right than to enlist an army of Mongols or Tartars.

Shannon afterwards excused himself by saying that Richardson and Stricklar had already begun, without his authorization, to incorporate the "volunteers" of Missouri into their militia command, and that he was obliged to follow their example to keep the blood-thirsty crowd in check.<sup>2</sup> That he could not cover his own guilt with the bad example of his subordinates, was self-evident, but great weight could not be denied his second ground of excuse. The unholy spirits conjured up by his acts could not be banished. The situation had undergone a complete revolution, in a moment. On the 1st of December, he had asked for federal troops to subjugate the rebels, and, on the 4th of December, he petitioned for federal troops again, because he was no longer master of the militia he had called out against the

<sup>1</sup> Testimony of the arsenal officer, L. Leonard. Report of the Investigating Committee, pp. 1129-1131. Compare also the testimony of Asaph Allen, *loc. cit.*, p. 1116.

<sup>2</sup> "Missouri sent not only her young men, but her gray headed citizens were there, the man of seventy winters stood shoulder to shoulder with the youth of sixteen.

"These men came to the Wakarusa camp to fight, they did not ask peace; it was war--war to the knife. They would come, it was impossible to prevent them. What, then, was my policy? Certainly this, to mitigate an evil, which it was impossible to suppress, by bringing under military control these irregular and excited forces. This was only to be accomplished by permitting the continuance of the course which had already been adopted, without my knowledge, by General Richardson and Stricklar, that is, to have the volunteers incorporated as they came in, into the already organized command." Phillips, *The Conquest of Kansas*, pp. 172, 173.

rebels. On the Wakarusa and at Lecompton, they took up their abode in two large camps, formally laying siege to Lawrence whose citizens stood ready, day and night, to receive their uninvited guests, and who, under Lane's skillful and vigorous leadership, labored industriously on works of defence. It was due solely to the respect which the assailants had for the rifles of the abolitionists and to the firmness and circumspect coolness of Dr. Robinson, that it did not come to a general battle. Sheriff Jones was able repeatedly to enter the city unmolested, but did not venture to speak of making arrests; the guards and patrols of the besieged did not return the random shots fired by the enemy in the darkness of the night; and even when one Barber, in a chance encounter with certain leaders of the Border Ruffians among them "general" Richardson himself was maliciously shot, Robinson's admonition not to give vent to their just acrimony, but to hearken to the voice of prudence was listened to. But the execution army of the law and order party became daily more and more an undisciplined band which inspired its own leaders with more fear than it did the rebels, against whom it was led into the field. The more they became convinced that the "white-livered abolitionists" would not allow themselves to be subdued like old women by oaths and threats, the more did they upbraid the governor and every one else, because men enough had not been procured to put an end to the matter, and, on the other hand, the abashing feeling that their role was by degrees assuming the appearance of the ridiculous and their impatience, excited them, more and more, into a blind rage. How the unhappy affair would end, became more incalculable every day. J. C. Anderson, a member of the Shawnee legislature, but residing in Lexington, Missouri, informed "General" Richardson, in writing,

that the militia would storm Lawrence without orders, if Shannon did not pledge himself to make no use of the regular troops and to leave the "militia" in undisturbed possession of the arms they had robbed from the arsenal in Liberty; it was necessary to take the necessary measure immediately; it was, perhaps, already too late; an encounter of federal troops and "volunteers" was to be feared. Jones, too, urged the governor not to wait for the regular troops, because the ranks of the volunteers were hourly growing thinner, and more than two-thirds would return home greatly dissatisfied, if they were not, at least, led to Lawrence. But why he wanted to march into Lawrence at all, with an army of much more than 1000 men, could not be discovered from his letter, since, according to his own report, Branson's liberators were no longer in the city, and he had no further warrants to execute.

Shannon, in the meantime, was empowered by telegraph, to make a requisition of federal troops. Colonel Sumner whom he immediately informed of that fact, thereupon declared himself ready to march within a few hours. But on the very same day (December 5) he recalled his promise, because, after mature reflection, he became convinced, that it was necessary for him to wait for a direct order from the government. Shannon whom the turn things were taking disquieted and terrified more and more, had, in the meantime, betaken himself to the camp on the Wakarusa, and began to recognize that the reins might completely slip from his hands, at any moment. Hence, he wrote again to Sumner, almost imploring him to set out without delay, even if the direct command had not reached him; that Shannon wanted to protect Lawrence and to prevent the beginning of a struggle the end of which could not be foreseen, but that he feared the besiegers

would refuse to obey him.<sup>1</sup> Sumner stood by his first decision, and Shannon, in his need, had recourse to the last expedient; he went to Lawrence himself to treat with the rebels.

On the 8th of December, a formal treaty was concluded between Shannon on the one hand, and Robinson and Lane, on the other.<sup>2</sup> Richardson, Stricklar and Jones received orders to go back with their men to the north shore of the Kansas river, and there to discharge them. With a volley of oaths and with epithets of every description applied to the unfortunate governor, the order was obeyed, for they did not dare to go to the utmost extreme, without the support of the legal authorities. A part of the Border Ruffians, however, delayed their decampment, and seemed to take no small pleasure in the enjoyment a little longer of waylaying and marauding, that their participation in the winter campaign might not be entirely fruitless. Shannon had become sufficiently acquainted with the fellows to know what they were capable of, and he, therefore, formally authorized Robinson and Lane to keep their men under arms, in order, according to their judgment, to see to the maintenance of peace and the protection of persons and property in Lawrence and vicinity. The "rebels" against whom he had, two weeks before, summoned all law-abiding citizens under arms, were now commissioned to protect themselves and the country against those who had been called to force them into obedience.

Thus was the "Wakarusa war" brought to an end, in the most surprising manner, but an armistice and not a

<sup>1</sup> "It is hard to restrain the men here (they are beyond my power, or at least soon will be) from making an attack on Lawrence, which, if once made, there is no telling where it may terminate." Phillips, *The conquest of Kansas*, pp. 217, 218.

<sup>2</sup> It is printed in full, *loc. cit.*, pp. 222, 223.

peace had been concluded, and in this armistice lay the germs of new and greater troubles. Not only Shannon but Robinson and Lane had not known how to disentangle the knot, and just as little as he did they have the courage to cut it. The real question in controversy was not decided in the treaty of the 9th of December but covered up in studied phrases which each side might interpret in its own way, and which of course it so interpreted. The introduction to the treaty declared that the lamentable and menacing affair had arisen from a "misunderstanding." In what this "misunderstanding" consisted was not expressly stated, but, from the stipulations that followed, it appeared that what was meant was the erroneous belief of the governor that the citizens of Lawrence had wished to oppose the enforcement of the laws. They asserted that they had not wished to do so, and that they did not wish to do so in the future. This sounded very well, but was evidently worthless, unless it was expressly said, that, by the laws and the legal authorities spoken of, the laws of the Shawnee legislature and the officers appointed by it, were understood. But this was not done. On the contrary, it was expressly stated, at the close, that there had been no desire to express an opinion as to the validity of the territorial laws.<sup>1</sup> Shannon reported to the president two days later, that Lawrence had promised to submit to the territorial laws and to aid in executing them, reserving only to individuals the right to bring the dispute as to their validity before the courts for decision.<sup>2</sup> But this was not in the treaty. That fact, of course, did not exclude the possibility that Robinson and Lane had given him to

<sup>1</sup> That we wish it understood that we do not herein express any opinion as to the validity of the enactments of the territorial legislature.

<sup>2</sup> See the wording, Congr. Globe, 1st Sess., 34th Cong., App., p. 721.



understand they would interpret the treaty in this way, but whether they did so must remain undecided. That it was not expressed in clear words in the treaty shows that they as well as Shannon considered it to be at least very doubtful whether the citizens of Lawrence would conclude a treaty, under such conditions, and what Robinson and Lane promised in regard to this fundamental question was wholly unimportant, unless ratified by Lawrence and the whole Free-Soil party. But the next succeeding day showed that the terrors of the Wakarusa war had neither moved the Free-Soil party to strike their flag nor dampened the zeal and determination of the law and order party by its fruitlessness.

The Topeka convention had fixed the 15th of December as the day on which its draft of a constitution was to be submitted to the vote of the people. The constitution was adopted by a vote of 1731 against 46.<sup>1</sup> The pro-slavery party, therefore, as was to be expected, had not voted. It gave, however, one sign of life. In Leavenworth, it broke into the voting place and took forcible possession of the ballot-boxes. The secretary, Wetherill, who had endeavored to rescue them, owed it solely to the interference of a few courageous Free-Soilers that he did not pay the penalty of his revolt against the knights of law and order—they were militia troops from the Wakarusa war who were to be paid off—with his life.

On the same day, Atchison sent from Platte City, through the Atlanta (Georgia) *Examiner*, an appeal to the whole south, in which he called upon it to send money and well armed men, because Missouri, on the soil of Kansas, was fighting the battles of the south and because before the end of a year, the wildest civil war would rage through

<sup>1</sup> A separate vote was cast on the clause which forbade the territory to free persons of color, 1287 votes were cast for and 453 against it.

the country.<sup>1</sup> The manifesto of the chief of the Border Ruffians, who had once presided over the senate of the United States, did not say too much but too little. What he expected in the near future, had been an accomplished fact, since the last days of November. McMullin of Virginia rightly declared two days subsequently, in the house of representatives, that civil war had actually broken out on the borders and was waged over the slavery question.<sup>2</sup> The blood hitherto shed afforded no correct measure by which to judge of the situation. The civil war was only local and would presumably remain some time only local, but it was an undeniable and terrible fact, that the beleaguering of Lawrence was the beginning of civil war. The slaveholding interest had had recourse to the sword, and the federal executive had loaned it the mantle of the law for that purpose. In the name of law and order, and behind the protecting shield of the president, the propagation of slavery was carried on with blood and iron, in the territorial domain of the Union. The Kansas-Nebraska bill had cleared the way for the slavocracy by substituting squatter sovereignty for the principle of

<sup>1</sup> "Kansas must have slave institutions, or Missouri must have free institutions - hence the interest the Border Ruffians take in Kansas affairs."

<sup>2</sup> "Let your young men come forth to Missouri and Kansas! Let them come well armed with money enough to support them for twelve months and determined to see this thing out! One hundred true men will be an acquisition. The more the better. I don't see how we are to avoid civil war, come it will. Twelve months will not elapse before war - civil war of the fiercest kind - will be upon us. We are arming and preparing for it. Indeed we of the border countries are prepared. We must have the support of the south. We are fighting the battles of the south. Our institutions are at stake. You far south men are now out of the native of the war, but if we fail, it will reach your own doors perhaps your hearths." Congr. Globe, 1st Sess., 34th Congr. App. p. 117.

<sup>3</sup> Congr. Globe 1st Sess. 34th Congr. p. 32.

the constitutional rule of the people, by basing the constitutional state on the one hand on caprice and chance and on the other on a conscious untruth;<sup>1</sup> and the law had become—and it could not be otherwise—a death-bringing Medusa-head to right and freedom.

<sup>1</sup> I mean the diametrically opposite doctrines of the Douglas Democrats and of the southern advocates of states rights on the right of self-determination of the territorial population, while the territorial condition lasted.

## CHAPTER IV.

## DISRUPTION OF THE NATIVIST PARTY AND THE ELECTION FOR SPEAKER OF 1855-56.

The 34th congress had met, on the 3rd of December, 1855. Half a year had passed since the president complained to Governor Reeder that Kansas had left him no rest, day or night. The moment had now come when he must report to, account to, and come to an understanding with congress, as to the policy to be pursued in future. What had taken place, in the territory, during these six months, was certainly calculated to grieve the heart of every patriot. It was, therefore, to be expected that the anxious state of helplessness in which Pierce stood face to face with the fate-pregnant problem, would have increased tenfold, for neither he nor his ministers could fail to see that the knot became harder to disentangle from day to day. But, although unquestionably very clear on this point, they appeared before the country much more confidently now than they would have then. The clouds which hovered over the Union had become perceptibly heavier and hung lower, but the storm which had broken, with such violence, over the Democratic party, passed away as rapidly as it had come. Pierce and his cabinet members, honest and warm patriots as they were, in their way, looked at this question only through the spectacles of the narrowest party spirit. Party interest with them was not above the weal and woe of the republic, but they would not and could not any longer recede; for even if events

forced the conviction on them, that they had made a great mistake, in the Kansas-Nebraska bill, they saw certain ruin in the victory of their opponents. Hence, in their eyes, the demands of party interest and the first commandment of patriotism were coincident: the programme of the party had now to be carried out, ill-advised as it had been when it set up that programme. Hence Pierce had good reason to carry his head higher, for, even if events in Kansas made it compulsory to carry on the struggle with a greater disregard of consequences, it did not, as in the spring, seem to be entirely without prospect of success.

The history of Know-Nothingism had verified, in a brilliant manner, the saying of Jefferson, that error need not be feared so long as reason is allowed to combat it. The party inspired fear only so long as it fought under the helmet of invisibility. The charm broke the moment the veil of secrecy was removed. The party had neither shield nor coat of mail, and like leaden swords in a theatrical wardrobe, its weapons glittered but did not cut. By the very fact that its programme and mode of warfare were made a subject of discussion, it was forced out of its victorious offensive attitude into a hard pressed defensive one; and every attempt it made to justify itself proved more conclusively that it was either chasing phantoms or pursuing reprehensible ends, and that the means it employed were either not permissible or must effect the opposite of what was intended.

How greatly at a loss must the Know-Nothings have been for good reasons for the demand that immigrants should be accorded the right of suffrage, only after a probation of twenty-one years, when the programme, a compound of rational ideas and radical nonsense, of a handful of German Social-Democrats, in Richmond, was brought

forward by them as heavy artillery, in their warfare.<sup>1</sup> If such an alteration of the nationalization laws was necessary, because, among the hundreds of thousands of Germans, there were a few muddled heads, who happened to spend an evening in drawing up radical plans for the improvement of the world, over their beer, it was still more necessary to renounce the principle of freedom of conscience, because Shakers, Mormons and other pestiferous sects carried on their doings, under its protection, unpunished. Thus far, one of the most prominent traits of the character of the American people had been a self-consciousness which, not unfrequently, went beyond the proper limit. But they could surely be induced by such arguments to reject the good with the bad, only on condition that they were first taught, faintheartedly to despair of their own strength and of the principles on which their whole political and social life rested. No horrific phantom could be made out of this kind of radicalism, for people knew too well that it was lacking in all the prerequisites of propagandist activity. The southern Know-Nothings who tried to make capital chiefly out of such extravagances of isolated social-political enthusiasts, feared only those adopted citizens who did not remain foreigners in thought and feeling. While, in the north, the crusade was carried on mainly against the Irish, the south was chiefly concerned with insuring the harmlessness of the wicked Germans. Adams of Mississippi, had, in December, 1854, in assigning his reasons for his naturalization bill, laid special stress on the fact that the Germans had sent in so many petitions against the Kansas-Nebraska bill, and had even burned Douglas in effigy.<sup>2</sup> That the south did not

<sup>1</sup> It is worth the trouble to read this programme, in the *Congr. Globe*, 2nd Sess. 33rd Congr. p. 95.

<sup>2</sup> When I learned the indignity offered to Senator Douglas by a



wish to see the influence of immigrants who professed such views grow, was, from its point of view, defensible and warranted, but it should not in defending it have claimed that these immigrants were not, in consequence, capable of entering into the spirit of American life and making it their own, since the position they had taken so decidedly and consciously, on this very question, was the most striking proof of the contrary. The southern Know-Nothings made war, in the first place, on the foreign-born who assimilated themselves most rapidly and most completely; the entire party demanded an aggravation of the naturalization laws and the political proscription of adopted citizens, because the foreign-born did not assimilate; but proscription was, as Barry of Mississippi rightly said, the surest means to prevent their assimilating.<sup>1</sup> And Barry was equally right when, in the name

German mob, I determined to introduce this bill" *Congr. Globe*, 2d Sess. 34d Congr., p. 25.

<sup>1</sup> The real danger is that foreigners will congregate in some states of the Union in such numbers, preserving the language, manners and traditions of the Old World, as to root out the native population speaking the English tongue, and that we may come to be a confederacy of states as foreign in origin, in language, customs, institutions, and religion, as are the several nations combined by force under the sway of the emperor of Austria, or the czar of Russia. Nothing can tend to accomplish this more speedily than proscription. If the foreigner finds himself one of a degraded caste while living among the native population, he will naturally seek those regions in which his own countrymen are numerous, and a little more concentration of the foreign population in some of the northwestern states will give them an absolute numerical majority, and insure the control there. In such an event, they would, of course, retaliate the proscription under which they had suffered; they would, perhaps, become even as intolerant as the Know Nothings and permit no native-born citizen, nor the son of a native, to vote or hold office, they would send naturalized foreigners to represent them here in both houses, as they would have the constitutional right to do; they would have their relative weight in presidential elections, and the 'foreign vote' would then be

of the dignity of manhood, justice and republicanism, he demanded that the political disfranchisement of the foreign-born, in case it were considered necessary, should take place openly and in due form by a law, and not by secret proscription.<sup>1</sup>

These two simple arguments would have sufficed to overthrow the house of cards of Know-Nothingism, even if the slavery question had not made the organization of a viable party on any other basis impossible. The honest nativists of the north guided by purely patriotic motives, who had no secondary intention<sup>2</sup> in what they did, became convinced, on calmer reflection, that the evils they were combating were smaller than those which would necessarily follow a change of the naturalization laws and the exclusion of adopted citizens from all political offices, or they at least, learned to look upon the measures taken in a different light and to judge them more correctly. And, in the south, where the movement was of interest, only by reason of its indirect relations to slavery, and where

something distinct and palpable for politicians to intrigue after. No state of things could be more deplorable than the war of races of which this order is the beginning and if it be not crushed at once by the honesty and common sense of the people, it may give to our history a chapter as dark and bloody as that of the English revolutions or of the religious wars of the Huguenots and Catholics in France.<sup>3</sup> Congr. Globe, 2d Sess., 33d Congr., Append., p. 57.

<sup>1</sup> *Ib.*, p. 58.

<sup>2</sup> This class laid great weight on the statistics of pauperism and crime and these statistics undoubtedly afforded a much more solid foundation for nativist tendencies than religious belief or the question of offices. That the percentage of paupers and criminals among the immigrants was larger than among the native born, lay in the very nature of the case, but the difference in the figures to the disadvantage of the immigrants was so enormous that there was reason to give the matter the most serious attention. The explanation was simply that European states had permitted themselves to use America as a place in which to deposit their thieves and criminals.

therefore, leaving the leading politicians out of consideration, it occupied men's minds but little, the appeal especially to the people's manliness found a loud echo. It does the south no small honor, that there the party had to agree to give up its secrecy and its oaths,<sup>1</sup> as it had been already previously forced there to make concessions in regard to the Catholics. But without its secrecy and its oaths it could evidently accomplish nothing in the south, unless regard for slavery drove people to join it; and how this question was to be answered, the south had soon to become clear, if it were not so already; for any one who cared to see could not fail to perceive that the disruption of the party in the north, on the slavery question, was at hand.

In the beginning of June, 1855, a meeting of the National Council took place in Philadelphia. If the leaders had been in the enthusiastic mood of the party during the preceding fall and winter, the internal breach which was already complete, might perhaps have been so far concealed or covered over, that one might have been deceived, in the party itself and out of it, as to its real condition. But a few days before, the Know Nothings in Virginia had suffered a decisive defeat. Henry A. Wise who, from

<sup>1</sup> "A direct result of the secret obligations of the Order, may be found in the bloody tumults of Louisville and the excesses of the Know Nothings in other large cities. To such an extent has public indignation been excited against the profane and familiar resort to extra-judicial oaths, and the invariable appeal to force and fraud at the ballot boxes, that in portions of the Union the Order has deliberately discarded alike its secrecy and its obligations. This has been the case in Alabama, Georgia, Louisiana and South Carolina." J. W. Forney, address on religious intolerance and political proscription, delivered at Lancaster, Pa., 24th Sept., 1855, p. 22. L. M. Kennett of Missouri himself a Know Nothing, says of the party in his state:

All secrecy is there discarded, and religious tests ignored." Cluskey, *The Political Text Book*, p. 209.

the beginning, had fought the new heresy with fierce passionateness, had been on the 24th of May, after a hard electoral campaign, elected governor, by a majority of 10,180 votes.<sup>1</sup> This put an end to the hope of victory in the next presidential campaign; for the utmost efforts of the party had been put forth, because it recognized correctly, that an unfortunate issue of the election, in Virginia, would destroy forever the prospects of the party in the south, which had been slight from the start. But not even the boldest newspaper writer would have now ventured to repeat the claim that the party could triumph even without the south. On the one hand, therefore, considerations respecting the presidential election, imposed no kind of reserve on the members of the National Council so far as the expression and defence of their opinions were concerned, and, on the other hand, the blow the party had just received compelled it to take a position on the slavery question, since the latter had undoubtedly very materially influenced the result of the election, in Virginia.<sup>2</sup> A new and powerful illustration of the irrepressibility of the conflict, between the north and the south, was thus added to those which had been already given. The official representatives of the party by which the slavery question had been ignored on principle, and which had owed its origin, to a great extent, to the wish to force the slavery question out of national politics, by turning the passions of the people on other questions, was not able to bring forward anything of importance on their own programme, but quarreled bitterly and with increasing violence, for several days, over the slavery question. Men had tried to convince themselves and the people that the

<sup>1</sup> Hambleton A History of the Political Campaign in Virginia

<sup>2</sup> The Richmond Examiner had asked on the 17th of April. "Is the south to lick the hand that smites her?"

slavery question could be silenced, provided they talked loudly and zealously enough of other things. Now came the representatives of the south and declared: You see that silence will no longer do, for, in the south, all we say is vain, so long as we do not explain ourselves on this question. But the very expression of these ominous words, in the national representation of the party, was the disruption of the party, for it had not come into being with the impracticable programme of neutrality on the slavery question, but its existence had become possible, because it absolutely ignored that question. Now, in the national representation of the party, it was stated that the slavery question was still a living and powerfully operating fact in national politics, and that as the party wished to be a national one in the most eminent sense of the word, it had to take a position in some way, negative or positive, on the question; that is it had either to reject the demand of the southern representatives, on the ground that the party as such was neutral on that question, or it had to make some confession of its political faith, in respect to it. But an express declaration of neutrality would not have suited even the centre of the northern conservatives, and that the two wings would never agree to such a declaration was so undoubted that the idea does not seem to have been even considered of having recourse to the expedient, the straw at which the drowning Whigs had once grasped. All the representatives of the south and a large part of those of the north had the slavery question incomparably more at heart than Know-Nothingism. They were such firm and ardent partisans on that question that they might, at most, pursue other party ends, side by side with it, but would never be able, as partisans of such other programme, to proclaim as a principle, neutrality on the slavery question which they looked upon as

an absurdity and which was an abomination to them. Hence the very establishment of a creed on the slavery question was the disruption of the party; but the moment they took up that question, the only question was which of the two wings should receive a challenge.

But even this was practically no longer a question, for it was undoubted that the northern conservatives, if they had to choose, would range themselves on the side of the south. The only question now really was what form should be given to the compact of the ramp of the Know-Nothing party with the slaveowner.

The majority of the committee who had to draw up the platform were fully conscious, how important it was to hit it right, here. The 12th section was a master-piece, in its way. Neutrality was announced as the principle of the Know Nothings, but not neutrality as the sinking Whigs intended—to agree to disagree—but as a position above parties, on the ideal heights of passionless patriotism. Even Pilate had stood above party, but after he had washed his hands as innocent, he caused Jesus to be scourged, and handed him over to be crucified. The Know Nothings did precisely the same, in the 12th section. That section<sup>1</sup> stated first, that the American party could not be held responsible for the offensive acts and broken obligations of the Whigs and Democrats, since it had been built upon the ruins, and spite of the opposition, of the latter party. Then, from the fact that the old parties, by the systematic agitation of the slavery question, had made sectional enmity a positive element of political power, the inference was drawn, that it was the duty of the Know Nothings to interpose to restore peace to the country, and to insure the continued existence of the Union. But as

<sup>1</sup> See its wording. Congr. Globe, 1st Sess. 24th Congr., Appendix p. 1179.



experience had shown, that the entirely opposite views of the contestants could not be reconciled, and since it could not be dishonorable to submit to the laws, the National Council was convinced that equal justice to all and lasting peace, would be best insured, if the existing laws were recognized as a final settlement of the question and were maintained. Although faith had been broken, bad laws passed, and a reconciliation of views become impossible, the Know Nothings not responsible for the past would do justice to all and establish lasting peace, unconditionally ratifying that guilty past by guaranteeing to one party all that it had hitherto *per fas* and *per nefas* obtained. Logic has often been obliged to act the hangman, but a softer rope it had never twisted from nonsense, sophisms and contradictions.

But this did not satisfy the gentlemen of the south; they made still further claims both on logic and on their friends in the north. The rejection of responsibility for the past had a meaning, only provided it were likewise denied that the party was under obligation, to take any position whatever, in respect to it. The National Council had declined to do this, since it argued in favor in the *status quo*, saying that it could not be dishonorable to submit to the laws; and it saw in the recognition of the existing laws, simply because they were the existing laws, the only possible solution of the problem, because the conflict of views was one which could not be composed. But this was immediately followed by the declaration that it considered it its highest duty to express its opinion in clear and unambiguous words on the question. The first sentence of the second paragraph of the 12th section was, therefore, a broad stroke drawn through the whole of the first paragraph. The National Council took up the slavery question in as positive a manner as it had ever been taken up by



the Whigs or Democrats, into the programme of the Know Nothings. Congress was denied the power to refuse a state admission into the Union because its constitution permitted or prohibited slavery; the question of law as to the power of congress in respect to slavery, in the territories, was "expressly" left undecided, but it was declared that it should abstain from all action in that regard, while it was not said who had to decide the question and when it was to be decided; and finally, congress was prohibited meddling with slavery in the District of Columbia, because such meddling was opposed to the spirit and intention of the treaty with Maryland on the cession of the District, and would be a breach of national faith—the platform of the moderate Douglas Democrats on which not a step could be taken without dropping into a hole or a trap-door.

It was self-evident that this order to march into the slavocratic camp, would not be obeyed without opposition, by all the representatives of the north. But although the majority did not conceal from themselves that this step would cost them many followers, they hoped to be richly compensated, in the south, for what they lost in the north, and it seemed more important to them to gain ground there than to maintain all they had hitherto won in the north. That the great majority of the representatives of the northern states would immediately turn them out of doors, and that the National Council would close its session as the stump of a northern tail to which hung the dead weight of the mass of all the representatives of southern Know Nothing minorities, they certainly had not expected. TH. A. FORD of Ohio, governor Gardner of Massachusetts, governor Fletcher of Vermont, Henry Wilson and others told them in tones more defiant, firm and provoking than had ever before been heard in a political convention against members of one's own party and especially against the

slavocracy, that this would be the consequence of their beginning,<sup>1</sup> but they did not believe it, or thought that they must run the risk. To southerners, the holding to Know-Nothingism without sufficient assurance in respect to the slavery question, meant absolute political paralysis, and, in the light of all experience hitherto, they could not but think that, at most, a small minority of the maddest fanatics would really venture to carry out their threat. Owing to the circumstance that the number of the delegates did not correspond with the electoral vote of the states, and that some of the smaller states cast a very disproportionate number of votes, the south was able with the help of the delegates of the District of Columbia and of the territory of Minnesota which took no part at all in the presidential election, to carry the adoption of the 12th section, by a small majority.<sup>2</sup> Thereupon the delegates of 12 states withdrew and immediately issued an "appeal to the people" in which they demanded the restoration of the Missouri compromise and severed political connection with all who did not approve this demand;<sup>3</sup> of the Know Nothing programme they retained only two demands: the

<sup>1</sup> Compare the reports of the *N. Y. Tribune* of the 12th to the 15th of June, 1855. See also Wilson's speech, Mason and Russell, *Life of Henry Wilson*, pp. 139, 140.

<sup>2</sup> According to the *N. Y. Tribune* by 80 against 59, but Barksdale of Mississippi, in his speech of July 2d, 1856 gave a very accurate voting list and according to it, the vote stood 69 against 62. *Congr. Globe*, 1st Sess., 34th Congr., App., p. 1178.

<sup>3</sup> The "appeal" is dated June 14, and is signed by the delegates of Massachusetts, New Hampshire, Vermont, Maine, Ohio, Indiana, Michigan, Illinois, Iowa, Rhode Island, Connecticut and Wisconsin. All the delegates of these states had withdrawn except one from Illinois who too, however, took no further part in the deliberations of the National Council. The delegates from Pennsylvania and New Jersey gave notice that they too would allow a northern platform to go forth, but wished to act for themselves. Hence only California and New York remained entirely true to the south.

alteration of the naturalization laws and the prevention of the importation of paupers and criminals. To a convention of Republicans, in session at the same time, in Cleveland, a telegram was sent from their midst, which said: Tell our friends in Cleveland that we go with you heart and soul.

According to the reporter of the *New York Tribune*, the representatives of the south did their best to persuade the seceders to reconsider their resolution and to take part in the proceedings, but were curtly dismissed. Be this as it may, they certainly believed that as Know Nothings, they had no reason to congratulate themselves on the issue of the struggle. The southern organs of the party immediately and unsparingly arraigned the convention,<sup>1</sup> and many of them even declared that they now had no longer any choice, but must return to the ranks of the Democratic party; the role of the Know Nothings was played out. The only task the party now had was to die, and by doing so to finish its historical mission which it had, in the main, already fulfilled, spite of the shortness of its life. Its triumphs had, by the dissolution of the old parties, in the most efficient manner, prepared the way for the Republicans, and one-half of its adherents, at its downfall, went over in solid columns into the camp of the new party which was forming.<sup>2</sup>

Counter-strokes were not wanting. The *New York*

<sup>1</sup> See some examples of their castigations in the *N. Y. Tribune* of July 4, 1855.

<sup>2</sup> Grimes had written on the 8th of April, 1855, to Chase: "It seems to me that it is time to thoroughly organize the Republican party. The Know Nothings have pretty well broken down the two old parties, and a new one, now organized, would draw largely from the foreign element that goes to make up those parties, while it will drive away one-half of the Know Nothings at least." *Salter*, *life* of James W. Grimes, p. 60. Similarly in a letter of the 12th of May, *Ib.*, p. 62.

*Tribune* complained bitterly, on the 7th of July, that the hopes which all the friends of freedom had placed in the secession of the 53 northern delegates, of the 14th of June, had not been realized. In Connecticut and Massachusetts, the party had, indeed, expressly approved this step, but neglected to follow the example given by it, since it still supra-ordinated its nativist velleities to the struggle against the slavery. These complaints were certainly well founded, but there was no reason why they should, on that account hang their heads. The victories of the preceding year still filled their minds too much, but now defeat followed defeat, and each succeeding one made it clearer to them, that, as Know Nothings, they had no political future. Elections were held in eight states, but they were victorious only in Kentucky and Maryland. The fruit brought forth by the 12th section of the Philadelphia platform, by no means came up to the expectations raised. In the south, nothing had been won, and in the north, the party had suffered much more severely by the breach than it had supposed. In Massachusetts, they were still able to elect their candidate for governor, but their ranks had been thinned by the fact that they had at first agreed to go with the Republicans and then separated from them, only because the candidate put up by the joint convention was not acceptable to them.<sup>2</sup> Moreover, this victory was materially facilitated by reason of there being five parties with four candidates in the field, and they certainly would not have achieved it, if they had not taken just as decided a position on the slavery question as the Republicans

<sup>1</sup> There was certainly much truth in what this article said: "The blame is thrown on the aversion of the leaders of the old parties to engage in a combination where the members of the new party must play so large a part."

<sup>2</sup> See the details in *Wilson, Rise and Fall of the Slave Power*, II., pp. 416, 417.

had.<sup>1</sup> This last was not the case in New York. Here the "Hindus" who took no offence at the 12th section of the Philadelphia platform triumphed, but they were victorious only by a plurality vote, and would have probably been defeated were it not that the conservative Whigs, the so-called "Silver Grays," had supported them out of fear of the Republicans.<sup>2</sup>

Even where the Know Nothings were still victorious in the north, they achieved their successes under circumstances which made it clear that their days were numbered. Although the Republicans did not immediately reap as much advantage from the disruption of the party, in Philadelphia, as was expected immediately after it, the New York *Tribune* was right when it said that the Republican movement, that is the organization anew of the national parties, on the basis of the slavery question, was only apparently arrested. A bridge could not be thrown over the chasm of the slavery question which divided the two halves of the party; and two nativist parties separated from one another by the slavery question and yet intimately connected with the other parties, could not, in the long run, subsist side by side. The possibility of playing a national role, as Know Nothings, had vanished. If they did not wish to give up making their weight felt in national politics, they would have to fight under the flag of a party whose vital principle was a question of national politics. If they only professed the same principles but refused to support the same men, they could, in the most favorable case, hold the control of power, only in the

<sup>1</sup> Even Greeley testified that their platform was "at least as anti-slavery as the Republican." The N. Y. *Tribune*, Nov. 21, 1855.

<sup>2</sup> The liberal Whigs and the Republicans held convention simultaneously in Syracuse on the 26th and 27th nominated the same candidates and voted the same resolutions. See the N. Y. *Tribune* of Nov. 1, 1855.

individual states and in these only momentarily, for it was plain that the number of those would steadily grow who would refuse to co-operate in a policy which knowingly and industriously placed the lesser above the greater. The efforts of the Republicans completely to win over to themselves the Know Nothings friendly to freedom, were, therefore, most effectually supported by those Know Nothings who had gone over bag and baggage to the Democrats. The absorption of the Know Nothings friendly to freedom by the Republicans was bound to happen as soon as it became fully apparent that Know-Nothingism had no future, and every Democratic victory contributed to make that manifest, while every victory of the Republican-nativist coalition, as in Ohio,<sup>1</sup> tended to lull the Know Nothings into new illusions. If the Republicans looked beyond the

<sup>1</sup> According to Chase's own testimony, the Know Nothings had a decided majority in the convention which nominated him for governor. *Warden, Private Life and Public Services of S. P. Chase*. This was of importance for the reason that he was himself no Know Nothing and certainly judged the situation rightly when on the 18th of October, he wrote to Pike: "I feel very sure that no other man could have carried the state at all under existing circumstances." Pike, *First Blows of the Civil War*, p. 299. In July, Grimes had strongly doubted whether the state in the presidential election would vote Republican, but now Chase wrote: "My majority is about sixteen thousand—enough for all practical purposes, and a sure guarantee that hereafter Ohio will be found on the right side." But in southern Ohio and especially in Cincinnati, the ill-feeling towards the anti-slavery movement was still great. Chase says in a letter of the 13th of March, 1861, to Trowbridge: "The hostility to abolitionism, under which name men include all earnest anti-slavery action, was at this time intense in southern Ohio, and nowhere more intense than in Cincinnati. At the election which had been held for governor, only three months before, I had received in Hamilton County, which includes Cincinnati, only forty five hundred and sixteen votes out of twenty three thousand two hundred and eighty. The rest, divided between the Democratic and Know Nothing candidates, represented hostility to my political and especially my anti-slavery opinions and principles." *Warden*, p. 347.



immediate present, they had, therefore, every reason to be satisfied with the results of the elections of 1855, because the Democrats had won back a large part of the ground conquered from the Know Nothings. New Jersey, Pennsylvania, Maine, Indiana and Illinois were lost to them, and in New York the "Softs" maintained such an attitude that one could not but expect to see them soon accept again the orthodox party creed as to the slavery question.<sup>1</sup>

It will now be intelligible, why Pierce, at the meeting of the 34th congress, was able to look forward to the proceedings relating to the Kansas question, much more confidently or, at least, more tranquilly than in the spring. The *Independent* showed the situation in a false light, when it now rejoiced as loudly as eight months before over the terrible defeat of the administration.<sup>2</sup> The figures which had then been calculated upon, as those of the relative vote in the house of representatives, were, in the main, still right, but they had the same meaning no

<sup>1</sup> Their state convention met at Syracuse from the 29th to the 31st of August. The *N Y Tribune* of Sept. 5, says of it: "Full three-fourths of its members voted for Van Buren in 1848, and yet all attempts to affirm the principles of that era signally failed. The reason was that eighty or ninety of the members hold office under the national administration, and were eager to do its bidding, while about fifty more of the delegates were either distributors of or applicants for its bounty. This gave the administration about forty majority." A resolution which condemned the repeal of the Missouri compromise was laid on the table by a majority of 37 votes. All the decided opponents of the Kansas Nebraska bill could carry through was the adoption of a resolution against the violence of the Missourians in Kansas.

<sup>2</sup> In its issue of December 6, 1855 it says: "The house of representatives consists of 234 members, all chosen since the passage of the Kansas Nebraska bill. Of these only 81 or 34 per cent were elected as friends of the administration, although it is probable that the love of slavery and the spoils will secure the adhesion of some others. In the thirty third congress, the majority in favor of the administration was 88, now the majority against it is 72, making a net loss of 16—in extraordinary political overthrow."

longer. The composition of the house did not correspond with the actual relative strength of the different parties among the people, and hence the majority did not have the moral weight it would have had, eight months before. The Democratic party was no longer, as Pike had triumphantly written after the election in New Hampshire, a skeleton,<sup>1</sup> but it had cast its opponents out of a number of positions which could not be wrested from it except by some sort of surprise. It could, with a certain amount of reason, appeal from the judgment of the house to the latest expressions of the will of the people, while the Know Nothings had to be silent on the present and the future and could rely for support only on the past. And finally, the administration party was still, at least externally, a solid mass, while the majority was a loose crowd, partly made up of heterogeneous elements, which held together on perhaps not a single question. The southern Know Nothings were now much nearer to the orthodox Democrats than the majority of their former party associates in the north. But without the southern Know Nothings and their northern adherents, the majority was a very small one, and how firmly that majority would hold together was very questionable. It too was composed of a great many elements which had found common ground only in opposition to the slavery, and whether they would be willing, without exception, to subordinate this question to all others, was all the more doubtful, as the increasing confusion in the opposition, in combination with the new acquisition of power of the Democratic party, had greatly dampened their enthusiasm and shaken their confidence of victory.

In the election of a speaker, it could not but become

<sup>1</sup> First Blows of the Civil War, pp. 202, 203.

immediately apparent, whether the administration had a solid majority against it or not. On the first ballot, 225 votes were cast, and 113 were, therefore, necessary for an election. But only 74 had been cast for the candidate who stood at the head of the list, and that was Richardson of Illinois, who, as chairman of the territorial committee, had led the Democrats, in the struggle over the Kansas-Nebraska bill. Next came Lewis D. Campbell, with 53 votes. Campbell was the leader of the Anti-Slavery Know Nothings of Ohio, to whom Chase ascribed a material part in his victory, in the election for governor. Humphrey Marshall of Kentucky had, as head of the Southern Know Nothings, received 30 votes. The fourth on the list, with 21 votes, was Nathaniel P. Banks of Massachusetts, once a Democrat, then a Know Nothing, but who in the last election for governor in Massachusetts, had voted not for the candidate of the nativists, but for that of the Fusionists, that is of the Republicans. Henry M. Fuller of Pennsylvania, the leader of the conservative Know Nothings, in the free states, received 17 votes, and the remaining 30 votes were divided among 13 candidates. When, on the morning of the third day, the tenth ballot had been taken, there was still no change in the relative vote to suggest that the end was near: Richardson was still at the head of the list, 198 votes were divided among the five candidates named, and there were 22 votes scattering. Every one even now felt what Marshall had given expression to on the 15th of December, that the country must see its own picture in its representation here.<sup>1</sup>

Not until the 12th ballot was Richardson forced into the second place, or did an opposition candidate, Campbell, lead the list. On the 17th ballot, the two gentlemen

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., p. 26.

again changed places; and Campbell who had never received over 81 votes, had, on the 21st ballot, only 46. He once more united 70 votes on himself, but after that, on the 7th of December, gave notice of his withdrawal from the list of candidates, because it was evident he could be elected only if he denied his principles in regard to slavery or as a Know Nothing, or if he made promises respecting the composition of the committees, by which he would sacrifice his own self-respect and expose himself to public contempt.<sup>1</sup>

This last remark immediately attracted great attention, but, at the moment, it was not known how to interpret it. A letter of Giddings seemed to afford the desired explanation. In a party meeting, he had moved a resolution<sup>2</sup> which declared that no candidate should be voted for unless he had pledged himself to appoint on the standing committees a majority of friends of freedom who intended to report on all petitions referred to them. The meeting, in which, however, neither Banks nor Campbell was present, had agreed to this motion without opposition. Catechised by Fletcher of Virginia, on this resolution, Giddings declared that the object of it was to find a common ground for the friends of freedom who had previously belonged to all possible parties. He further emphatically confirmed the assurance of Campbell and Banks that they had entered into no such agreement, and no one had even claimed they had done so. He repelled the assertion made by Fletcher and others that this assurance could not be reconciled with the resolutions adopted, since the part of the two candidates of the friends of freedom admitted no doubt that they stood on the ground of the resolutions. That neither he nor Campbell nor Banks was guilty of an

<sup>1</sup> *Ib.* p. 11

<sup>2</sup> See its wording, *Ib.*, p. 46

untruth, there is no doubt, but it is just as certain that the statement made by Giddings could not be looked upon as entirely satisfactory, and that they left Campbell's surprising utterances of the 7th of December, unexplained. This much, however, may be inferred from the episode, that the friends of freedom to some extent looked upon one another with distrust, if formal intrigue whose first victim, Campbell was, was not going on among them. In favor of this last assumption was the fact that, according to another letter of Giddings, the vote for Campbell had been brought to such a figure in order to make his withdrawal easier to him: the left wing of the friends of freedom had never wished seriously to support his candidacy, but considered it politic, even after his retirement from the contest, to leave a veil temporarily over their game, and hence gave orders that the votes should be united on its candidate, Ranks, only gradually.

It seemed for a time as if this cautious course would carry him to the wished for goal. On the 38th ballot, on the 10th of December, Ranks received 105 votes, but beyond that figure he could not get, although there were still several decided friends of freedom who had not voted for him. One Dunn of Indiana - who had repeatedly given him his vote, fell away and declared absolutely he must insist that the party candidate should be formally nominated by a caucus. As almost the entire party had actually united their votes on Ranks, this demand had no reasonable meaning; but, on this very account, it was the best proof that the ship which had sailed so gaily at

<sup>1</sup> A caucus had been held of course, because some declared that their constituents would take ground where if they followed the commands of a caucus. This is shown that the friends of freedom were not one party, but were of the same mind as to the necessity of that one party, that the strengthening of the minority would be opposed.

first had run upon a rock from which no effort could remove it.

Similar rocks, however, stood in the way of their opponents. It was still more difficult to reconcile them, although they, throughout, unreservedly and emphatically declared that they, like the friends of freedom, looked on the position of the candidate on the slavery question as the first and controlling element decisive of their vote. Marshall and his friends exhorted the Democrats not to leave the victory to the enemy, out of empty party pride, but to be practical in politics and support a candidate who afforded every assurance, so far as the slavery question was concerned, for the reason that they must have become convinced the election of a Democrat was impossible. The Democrats replied by calling on the gentlemen to follow their own wise teaching, since it was altogether too ingenuous a claim that the great majority should carry the train of the small minority. The south and the whole country would hold the Know Nothings responsible, if the "abolitionists" came into power, for so long as Campbell had been their chief candidate, and afterwards, so long as Banks had not received over 100 votes, a speaker faithful to the constitution might have been chosen, if the Know Nothings had united with the Democrats. Walker of Alabama questioned this; the going together of the Democrats and Know Nothings would have as a consequence the immediate unification of the Free-Soilers; it was owing to the attitude of the Know Nothings that the decision was at least postponed. Moreover, the resolutions adopted by the Democratic nominating caucus made it impossible for the Know Nothings to vote for Richardson or any Democrat who had participated in the resolutions of that caucus; the resolutions branded the Know Nothings as enemies of civil and religious liberty and they could not be asked to



kiss the hand that smote them.<sup>1</sup> Besides Zollicoffer of Tennessee, called attention to the fact, that even the New York *Tribune* had granted that the Democrats might, at any moment, have elected Fuller,<sup>2</sup> and that this allegation had been confirmed by the Washington *Union*, with the remark, that Greeley had been able unhesitatingly to make that admission, since he well knew that the Democrats would, under no circumstance, drop their party candidate.<sup>3</sup> Walker was, therefore, right when he said that fidelity to principle which it was alleged was to be found only among the Democrats, was really only party arrogance and party exclusiveness. When Walker had proposed a conference in which all who were in favor of the existing laws in relation to slavery, should come to an understanding on a safe, sound and conservative organization of the house, Jones of Pennsylvania haughtily rejected the proposition with the declaration that the Democrats would never go into any caucus but a Democratic one.

If these justifications, complaints and representations

<sup>1</sup> See the words of the resolution, Congr. Globe, 1st Sess., 34th Congr. p. 62. Jones of Pennsylvania who had moved the resolution made a fruitless attempt to pacify the Southern Nativists by saying that the party spoken of was not the "American party" but the "Know Nothing party" which, in my country—and I presume it is the same elsewhere—means Free Soil (in concealed, in contradistinction of Free Soilers openly and publicly professed." *Ib.* p. 36.

<sup>2</sup> The southern Know Nothings had given up Marshall's candidacy and voted for Fuller.

<sup>3</sup> In the article of the Washington *Union* referred to, we read: "When Mr. Greeley declared on Friday that, 'if the Democrats and the southern Know Nothings choose to elect Fuller to-morrow they can,' he spoke the truth but he ran no risk in the statement he knew that Richardson was the Democratic candidate, and he knew, too, that at the beginning of a great presidential canvass the Democrats understood the importance of organization too well to abandon their nominee on any terms. This fact will not be forgotten by the people, it was true that the Democrats could have elected Fuller, but such a result was never contemplated by any one of them."

which, from time to time, stirred up the animal spirits of the members wearied by the dreary monotony of their fruitless balloting, had any result, it was only that they became mutually more embittered. On the 26th of December, Jones and Marshall declared that their respective parties, declining all responsibility for the consequences, would continue to go their own way and would never agree to a coalition on the conditions proposed by the other party. But an interpellation compelled Marshall to add a significant limitation to this declaration. Collax asked him whether a letter recently published in the *Louisville Journal*, over his name, had been written by him, in which it was said he would not vote for a Democrat, unless the election of a Republican could be prevented only by his so doing. Marshall frankly acknowledged that the part in question of the letter which had been written by him, should not have been printed, and then explained it to the effect that he would, as a last sad alternative, agree to support a Democrat, if the house, by a resolution that the speaker should be chosen by a plurality vote, left him a choice only between a Democrat and a Republican.<sup>1</sup>

This confession could not but encourage the Democrats to persevere in the struggle, for they did not have to fear that all the friends of freedom would finally unite on Banks. Dunn worked himself more and more into a violently defiant opposition and the others who resisted were as little influenced by Sherman's solemn warning that the country would demand an account of the time uselessly wasted, as were the Know Nothings by the conjurations which they exchanged with one another. And the apostates who up to their election had loudly denounced the Kansas Nebraska bill and who now either went with the

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., p. 87.

southern Know Nothings or voted for Richardson, were still less moved to return by reproach and abuse.

Under these circumstances, it seemed to many to be the sheerest waste of time to continue the balloting any longer and all kinds of propositions were made to reach an organization of the house in some more or less unusual way. Letcher and McMullin of Virginia demanded that all members should lay down their commissions in order that, by new elections, a house might be obtained which really represented the views of the people. This proposition could be scarcely seriously meant, for as the majority must have expected, by new elections, to be transformed into a minority, it was self-evident that they would under no circumstances adopt such a proposition. It had all the less reason to entertain such an idea, as the combined vote of the Democrats and Know Nothings no longer constituted the majority. after Fuller, on the 19th of December, had declared that, although he had not approved the Kansas-Nebraska bill, he was opposed to all agitation, that is, to all disturbance of the *status quo*, and would, without regard for the slavery question, vote for the admission of Kansas into the Union, if it sought to be admitted.<sup>1</sup> But there were many things which might be tried before the necessity of resorting to such a heroic remedy was granted.

It was first resolved (December 26) that no motion to adjourn should be in order, until a speaker was chosen. But, before a new ballot was taken, a recess was granted which, as Stephens rightly said, was a repeal of the first resolution. The gentlemen who had so bravely given notice that they would "sit out" the affair had only made themselves ridiculous, and, on the following day, the great resolution was formally repealed.

<sup>1</sup> Congr. Globe 1st Sess., 34th Congr., p. 54.

This tragico-comic interlude was followed by a new and noteworthy attempt to harness the Democrats and Know Nothings together. Spite of the declarations made by Jones and Marshall, on the 26th of December, Seward of Georgia believed he would be able to reach the goal, and quiet the irritability of party pride by formally divesting the candidate of his character as a party representative. On the 28th of December, he moved that all who held to the doctrine of non-intervention, as laid down in the Kansas-Nebraska bill, should unite to declare Richardson elected speaker. Marshall asked to be informed how the doctrine of non-intervention, according to the Kansas-Nebraska bill was to be understood, and the debates on the subject emphatically recalled to the minds of the people the fact that the interpretation of the northern and southern partisans of the law were directly opposed to one another. Seward admitted this without reserve, but did not see the slightest difficulty in it, since the courts would decide which interpretation was the right one.<sup>1</sup> Among all civilized people it is a recognized principle that when the wording of a law gives occasion for doubt, the judge shall endeavor in some other way to ascertain the will of the legislator. The house of representatives of the United States which in the most eminent degree wished to be and should be a constitutional state was now obliged to permit itself to be offered, in the plainest words, the affront of the demand, that it should by craft secure to itself the election of a speaker, by not only bringing again into application the principle actually followed in the Kansas-Nebraska bill, but by formally proclaiming that the legislator might knowingly and industriously pass laws which neither gave nor were intended to give expression to a definite legisla-

<sup>1</sup> "Our business is to make laws. It is the business of the courts to construe them."

tive will, and thus force the courts to decide not according to the laws but to guess unsolvable riddles, that is to substitute their pleasure for the laws. The proposition of course met with no approval, but the history of the Kansas-Nebraska bill proved that no reasons based on political ethics stood in the way of its adoption.<sup>1</sup> Yet Seward was altogether too ingenuous or credited the Know Nothings with altogether too much ingenuousness, if he believed he could gain them over by investing the Democratic candidate with the fig-leaf of a formula which in itself would not be objected to by them.

The year came to a close, and the house was not one step nearer to its organization than on the first day of the session. On the 31st of December, the annual message of the president reached it; but, after a long and excited debate, the reading of it was refused, because the message was directed to congress, and no congress existed, so long as a house had not been organized. The principle was correct, but the question should have been raised whether, in the interest of the state, the possibility should not be guarded against by a law, that, in times in which party

<sup>1</sup> Some remarks which Marshall had previously made on this question, are worth mentioning. On the 18th of December, he said of the resolutions of the Democratic caucus: "Their resolution tenders congratulations to the country for the triumph 'of the principles of the Kansas-Nebraska bill,' and they hold it to be their highest duty 'to continue our efforts in the maintenance and defence of those principles and the constitutional rights of every section, and every class of citizens, against their opponents of every description' etc. The readiness of these gentlemen to take that position exhibits the desire for a renewal of a sectional controversy, and I charge the fact to be, that it is taken with the expectation of solidifying the political and material interests of one section of this country, and arraying men of all parties in that section against the other section, and is done with the view of meeting their natural antagonists—the Republican party—in order that they may get up a sectional presidential contest." *Congr. Globe*, 1st Sess. 36th Congr., p. 47.

affairs were in a disturbed condition and passion ran high, the Union should remain weeks and months without a legislative power, because no majority in the house of representatives agreed in a choice for speaker. And this question suggested the further one, whether it was to the interest of the state that the composition of all the standing committees of the house should any longer be left to the sovereign pleasure of the speaker, since it was owing solely to his power to appoint such committees, that the choice of a speaker was in certain respects of greater importance than the election of a president. But urgent as it might be to make these questions the political order of the day, the old laws and rules were still in force, and hence the house had only one duty to perform, to put its shoulders to the Sisyphus stone again and see how it could manage to roll it at last to the top of the mountain.

On the 9th of January, 1856, another effort was made. The Democratic caucus had resolved to vote against adjournment, until a speaker had been chosen, and the *Washington Union* had published the resolution *urbi et orbi*. The friends of freedom accepted this challenge to a trial of strength, and met it victoriously. On the morning of January 10, when the finger of the clock began to move past the figure that marked the hour of eight, the Democrats commenced to give up the hope of getting a speaker by sitting it out, and voted to adjourn. The annals of congress had been enriched by the history of a dreary and scandalous night-session and this was the only result of that manoeuvre.<sup>1</sup>

<sup>1</sup> Ruffin the Democratic representative from North Carolina, said: "I was well satisfied what these night sessions would bring about. We have seen within the last twelve hours, scenes that would disgrace the worst sawyer's house on the canal, or the lowest tippling shop on English Hill." 1b p. 197. Yet Know Nothings and Democrats exclusively had spoken, and spent the night in crimination and disgusting



Two days later, a more ingenious means was tried. On the 12th of January, the three principal candidates were, in accordance with a resolution of the house, subjected to a formal catechisation. When Giddings, in the debate on his resolution, had addressed the question to Richardson whether, conformably to parliamentary usage, he would so make up the committees that they would not bury the petitions relating to slavery referred to them among the records, but report on them, the latter refused to answer, remarking that he and the questioner were not in the same situation, since he was a candidate. The laughter with which this reply was received showed that Richardson not only wished, like Campbell and Banks to repel the idea that he would make improper promises, but to claim for candidates the right to leave unpleasant questions the honest answering of which might compromise them in the eyes of a portion of their party followers, unanswered. But perhaps a decision might now be reached by compelling the candidates to make a confession of faith, whether they thereby compromised themselves or demonstrated that they were not marked by the blemishes which had been imputed to them. The fruitlessness of all previous

withdrawals. Ruffin added to his characterization of the night session, the remark: "My section of country has nothing to expect from this congress or its legislation, and it is a matter of perfect indifference with me whether it ever is organized. The government can get along without it." The Democrats might find some consolation for this defeat, in the fact, that, on the same day, a convention of "Softs" of New York, at Syracuse spoke a humble *pater peccavi*, lamenting that the unfortunate agitation of the slavery question had found a treasonable head in the formation of the Republican party and proclaiming that the principles of the Kansas Nebraska bill were the standard under which they wished to fight and win. See the resolutions in the *N. Y. Tribune* of Jan. 13, 1856. The *N. Y. Daily News* the organ of the "Hards" in the State of New York had a leader on this conversion, under the title. "The Softs eating dirt at Syracuse."

endeavors was certainly deducible in part from the unclearness of the entire situation, and it could not but contribute to an understanding of it, if the candidates were forced to break their silence—provided they now stated their views with complete frankness. But this provision was not fulfilled, and hence, after the very painful hearing, people stood exactly where they had stood before it. It had become apparent once more how musty and saturated with mephitic vapors the political atmosphere still was. Not only had minds not yet become by any means clear, but, on both sides, people believed they could best serve their cause, by bargaining with their own convictions and their own consciences, or at least they did not allow themselves to be forced out of the deceptive dusk. Richardson avoided expressing his opinion as to whether the territorial legislature had the right to prohibit slavery in Kansas, and Howell Cobb of Georgia supported, with all his strength, his not unskillful efforts to importune people by vague and sonorous talk on this decisive question. Banks gave no answer to the interrogatory whether, and to what extent he was still a Know Nothing, left it to the future to decide what should be done with slavery in territories yet to be organized, did not clearly express himself as to what he thought of the restoration of the Missouri compromise, and refused to say anything concerning slavery in the District of Columbia.<sup>1</sup> Finally, Fuller who had

<sup>1</sup> Banks was very severely reproached because, in a speech which he delivered on the 11th of August, 1855, in Portland, Maine, he had declared himself, under certain conditions, ready to let the Union go, and in reference to this question, too, he could not be moved to define his position more precisely. The part of his speech in question is as follows: "Although I am not one of that class of men who cry for the perpetuation of the Union, though I am willing in a certain state of circumstances to let it slide, I have no fear for its perpetuation. But let me say, if the chief object of the people of this country be to main-

been elected as an opponent of the Kansas-Nebraska bill and who had, during the last six weeks, repeatedly expressed his disapprobation of that law, now moved over completely to the side of the slavocracy, and went even beyond Richardson. He began with the bold assertion that the Kansas-Nebraska bill promoted neither the creation of free states nor of slave states, then roundly denied congress all legislative power in respect to slavery, and lastly, plainly declared that the power of the territorial legislature on this question too was limited to protecting citizens of the territory in the enjoyment of their property, in accordance with the "organic law." The catechisation had, therefore, led to the surprising result, that, so far as the territorial question was concerned certain anti-Nebraska people were so like southern radicals that they might have been mistaken for them.

It had become gradually positive that not one of the 107 who, for weeks, had voted for Banks, could be alienated from him. Hence the Democrats had only a choice of three possibilities: to leave the field and accede to an

tain and propagate chattel property in man, in other words human slavery. This Union cannot stand and ought not to stand."

"I do not regard the Kansas and Nebraska bill as promotive of the formation of free States and I will further say, sir, that I do not believe that it is promotive of the formation of slave States. And I hold in the absence of express authority that congress has no constitutional right to legislate upon the subject of slavery. Applause. I hold that the territories are the common property of all the States, and that the people of all the States have a common right to enter upon and occupy these territories, and they are protected in that occupation by the flag of our common country. That congress has no constitutional power either to legislate slavery into or exclude it from a territory. Neither has the territorial legislature, in my judgment, any right to legislate upon that subject except so far as it may be necessary to protect the citizens of the territory in the enjoyment of their property and that in pursuance of its organic law as established by congressional legislation. Congr. Globe, 1st Sess. 34th Congr., p. 523.

election by a plurality vote, or to persevere in their previous course and prevent the organization of the house, or to make new efforts to come to an understanding with the Know Nothings. They still repelled every idea of yielding; to take the second road open to them, they did not dare, because the principle that minorities should stand back for majorities was so deeply rooted, in the consciousness of the people, at least in the free states, that the whole responsibility would be cast upon them and the Know Nothings, if the country had to be governed during this legislative period, without a congress.<sup>1</sup> They, therefore, lowered their tone against the Know Nothings and took the first step towards them by saying that they were ready to make concessions so far as the question of persons was concerned. On the 23rd of January, Richardson announced that he would irrevocably withdraw his name, next day, from the list of candidates. Rust of Arkansas, moved to summon all candidates to withdraw, that there might be a free field to begin the work anew. This motion, however, was laid on the table next day, after Fuller too had withdrawn his name. The Democrats now voted for Orr, but on the second ballot almost all the Know Nothings again united their votes on Fuller. Hence the advances made by the Democrats wholly failed of their object. Olingman now ventured, without the authorization of his party and

<sup>1</sup> On no other occasion did it appear so clearly that, under certain circumstances, very serious consequences might result from the fact that, in the United States, the dissolution of congress and the ordering of new elections are not possible. But as, since Jackson's days, the power of congress has steadily grown at the cost of the president, it is not to be expected that such authority will ever be granted to the latter. The grant would suppose a radical revolution in the ideas of the American people as to the nature of a true republic, and it must be admitted that no occasion for such a revolution has hitherto been given by the absence of that power.

to its great displeasure, to move, on the 30th of January, an election by a plurality. The motion to lay the resolution on the table was rejected, but the resolution itself was voted down by a small majority.

Clingman subsequently stated that it had never occurred to him to wish to strike the Democratic flag; rather had he been convinced that, by the adoption of his motion, the Know Nothings would have been forced to vote for the Democratic candidates. The latter thereupon declared that the assumption was an entirely erroneous one, as they were resolved not to allow themselves to be forced. Considering the previous confession made by Marshall, this might, indeed, be doubted, but it might also seem questionable whether Clingman had really believed that he was fully sure of his cause. His motion, certainly, had broken the ice. The affair could no longer be carried on as it had been. For almost two months, the members of the house sat together to no purpose, and a message of the president on Kansas, received on the 24th, the reading of which was carried, after a long and stormy debate, contained the most emphatic admonition that vital interests of the country imperatively demanded that congress should finally be allowed to begin its legislative labors. A sufficient number of Democrats was found who were ready to bring about the decision, taking the chances of the Know Nothings being true to their last declarations or voting in accordance with Marshall's confession.

On the 2nd of February, Samuel A. Smith, Democratic representative from Tennessee, moved that if three further ballots should produce no result, the member of the house who, on the next succeeding ballot received the largest number of votes, should be declared speaker of the house. Two months later, Smith frankly said that his aim, in the first place, had been to effect the organization of the

house;<sup>1</sup> now he assigned as a reason for his motion the fact that the day before a ballot had been taken which afforded a hope that that motion would lead to the election of a man with sound national principles.<sup>2</sup> He had reference to Aiken of South Carolina. Howell Cobb had made a motion to declare Aiken the chosen speaker of the house, and as he was a Democrat but did not belong to the administration party proper, most of the Know Nothings had voted for it. Smith, therefore, had reason to expect that if the Know Nothings were placed before the alternative described by Marshall, they would vote as he wanted, in case the Democrats now made Aiken their candidate. He was made their candidate. Orr withdrew his name, in favor of Aiken, the moment Smith's motion, for which of course the friends of Banks voted solidly, had been adopted. The Democrats, on the other hand, were by no means convinced of the correctness of Smith's calculation. They made desperate attempts to recall the resolution just passed, but did not succeed. Their fears proved well founded. The 132nd ballot, the last on which, after Smith's motion, an absolute majority was necessary to an election, was fruitless. A motion of Rust's to adjourn was voted down by a large majority. People had scarcely patience to listen to Fuller who had received 13 votes on the last ballot, repeat, in few but emphatic words, the declaration he had already frequently made, that he did not wish to be considered a candidate any longer. The taking of the 133rd ballot was followed in breathless suspense. The result was: Banks 103, Aiken 100, Fuller 6, Campbell 4, Wells 1. Banks owed his election to the fact that three northern Know Nothings<sup>3</sup> who had voted

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., App., p. 332.

<sup>2</sup> Congr. Globe, 1st Sess., 34th Congr., p. 335.

<sup>3</sup> Brown of Pennsylvania, B. Clarke and Whitney of New York.



on the 1st of February for the Cobb resolution, had now given their votes again to Fuller, and presumably not although they knew, but because they knew, what consequences their step would have. If they had not fallen away from Aiken, no election would have taken place on this ballot, even under the plurality resolution, because the dissatisfied friends of freedom could not have been moved to vote for Banks by the consideration that the rejection of their votes might lead to the election of a Democrat.

This unparalleled electoral contest had lasted two whole months, but much as had been said about the waste of time, the reproach was never seriously intended. Even the politically simple had felt, during all these long weeks, that the lots were being shaken in the box of fate; and the eyes of the whole people were excitedly fixed upon it. They were now cast; but there they lay, an oracle which needed to be interpreted, and which even the wisest were not able to interpret with undoubted certainty. One thing only could no longer be ignored, that people were on the eve of a new era in national history. The nature of the representative state supposes party government, in accordance with the principle, that the majority rules within the limits prescribed by the constitution and the laws. The course of this electoral battle had shown that there was no longer any majority, but that the people were divided into a number of minorities the connecting cement between which had either already become so brit-

The statements made by Smith on this subject on the 4th of April Congr. Globe, 1st Sess., 34th Congr., App. p. 352 were altogether wrong. Fuller now voted for Aiken. Millwood had voted against Cobb's resolution and Valk did not vote at all on the last ballot. See the list of votes on Cobb's resolution which was rejected by 110 against 103 votes. Congr. Globe, 1st Sess., 34th Congr., p. 353.

tle or had never had any strength, that, unless for the pressure of the opposing parties, it would have entirely crumbled away. People were rapidly approaching the culminating point of a general process of dissolution and formation, in party life. The course and issue of the struggle had decided that not only could the formation anew of parties on the slavery question not be prevented, but that it could not be postponed; but it had decided that and that only. Nothing certain could be inferred from them in answer to the two questions: whether the internal consolidation of the new anti-slavery party which was forming would strengthen or weaken it numerically and to what extent its formation would influence the groups of the opposing elements, consolidating or disintegrating them. The Whigs had not been so much as mentioned in the great struggle, the Know Nothings who had stood in the fight as such were a small minority without a future of the nativist party, and for the vague designation of "friends of freedom" which Giddings had made use of in his resolution, the definite name "Republicans" was soon substituted, by their opponents in the debate. This much was, therefore, certain that Democrats and Republicans were the parties of the future. The party programmes of the Whigs and Know Nothings had been as irrevocably deposited among the archives as the documents relating to the embargo controversy and the right of search. If these two parties were still able to maintain themselves a little longer on the political stage, it is not because there was still a spark of life in their programmes, but solely because events had not progressed so far that they were obliged to decide whether they would join the Democrats or the Republicans; but so long as they could postpone this decision, neither Democrats nor Republicans were justified in drawing conclusions as to the presump-

tive course of the general struggle, from their victory in any one definite question or in any one definite place. Now the coalition of the Republicans and of the nativists friendly to freedom had conquered, but while they had expected to have a nativist majority in the house of representatives, they had held the field only in a plurality election, since all the Know Nothings had not followed the Democrats, and their success depended on that, because all their own associates had not remained true to their flag. The Democrats, on the other hand, had for two months, been able to contest the victory with the anti-slavery coalition, and would have finally, with a little more effort, carried it, although in an almost unparalleled defeat, they had shrunk from an overwhelming majority to about a third of the house; but to come thus near to victory, the dominant faction had to agree to drop its candidate and, on account of the Know Nothings, to replace him by an independent member of the party. Banks, therefore, erred as a party man, but acted in accordance with parliamentary principles, when he gave the friends of freedom in the committees only the meagrest majority.<sup>1</sup> It could have only injured them and the great cause they represented, if he had acted otherwise. But even if the immediate fruits of this victory which might easily be followed by new and severe defeats, were necessarily very meagre, the friends of freedom in the whole country were warranted in uttering a cry of jubilation from their inmost heart, since, for the first time, neither

<sup>1</sup> He however went beyond what could have been required of him when he took the chairman of several of the most important committees from among his most devoted opponents and placed Quettner, for instance, the Union supporter, at the head of the committee to investigate slavery. See the complaints of the *Independent*, of Feb. 11th, 1856.

threats nor promises had broken their ranks and the day belonged to them.<sup>1</sup>

<sup>1</sup> The Washington correspondent of the *Independent* writes: "It is the first real victory of freedom over slavery for the past quarter of a century or more. But it is only the storming of the bastion or outer wall. True, Mr. Banks is in the chair, but he has not a working majority sympathizing with his principles. Neither have the slave-extensionists upon a full vote of the house. And in the practical issues which are yet to come, it will still need the cool and invincible courage to fully checkmate and prevent the action of a pro-slavery senate and executive." The *Independent*, Feb. 7, 1856. In a leading number of the same article, we read: "The 'Republicans,' without organizations, without leaders, without the efficiency of party drill, united only in a moral unity through force of a great public danger, have vindicated the just liberties of the people against the scheming of politicians and the stubborn rule of party."

## CHAPTER V.

## POSITIVE AND NEGATIVE PROGRAMMES.

The message of the president began with a congratulation on the quiet progress of the republic in the way of peace and prosperity. As it appeared from other places in the message that he had reference not only to the international but also to the domestic affairs of the Union, the congratulation must have been a matter of surprise. If peace and calm were the signs of the time, how did it happen that the house of representatives had, for four weeks, endeavored in vain to choose a speaker? In the face of this fact, to claim that the United States, unlike the states of Europe and Asia, did not waste its strength in domestic strife or in war with foreign powers, seemed somewhat bold. Yet one could have been surprised at it only if he considered the optimism which had dictated the congratulation to be as ingenuous as it was in reality assumed. Whatever logic might say, Pierce did not wish, by this flattering comparison between the United States and the rest of the world to deny the fact that the Union was full of the bitterest strife, but he assigned as the cause of all discontent, the imperfections inherent in human nature and in the best systems of government.<sup>1</sup> If this did not mean that no occasion had been given for well grounded complaints, it is difficult to say what it meant. But he did not wish to go so far as this, for he

<sup>1</sup> Statesman's Man, III., p. 2120.

further only claimed that the questions which were the object of political agitation owed their origin, in great part, to exaggerations of inevitable evils, to over-zeal in efforts at reform or to imaginary evils whose connection with the constitutional functions and duties of the federal government was only a very remote one. The explanation restrictive of the first statement was followed by the allegation that these questions were to be noticed by the federal executive and to be laid before congress only to the extent that the stability of the constitution and the integrity of the Union seemed menaced by them.

Far as the unclearness of thought, incorrectness of expression and want of logic, in the points of the presidential message above referred to, exceeded what the mildest judgment passed on such a document can excuse, no one in the United States had need of a commentary to tell him what Pierce intended with this confusion of contradictory and half-true commonplaces. The short meaning of the long speech was that only stupidity or bad will could find any reason or rather pretext for disturbing the domestic peace of the country, on account of slavery. All the remainder of the message—which occupies 8 pages of 53 lines each in the Statesman's Manual—is devoted to the proof of this assertion. The whole history of the slavery question, from the origin of the Union to the present time is recapitulated to show that the south had never been guilty of any aggression but had always been exposed to unjust and unconstitutional attacks.<sup>1</sup> The art of misrepresenting history by the suppression and distortion of facts, and by bold assertion was here practiced with a shamelessness which outdid everything that even a Van Buren or a Polk had dared to offer the people in this respect.

<sup>1</sup> *Ib.*, III., p. 2123.



The basis of the entire argument was the old, incorrect fundamental principle of the advocates of states rights, that, with the Declaration of Independence, each colony had been changed into an absolutely independent state,<sup>1</sup> and this principle was supplemented by the declaration that the war of independence had led to the formation of "a republic of the free white men of the colonies"—words which are to be found in no document of the time and to which are opposed the fact that, in several states, colored persons were citizens and had the right of suffrage. Starting with this double premise, the message, by a long course of reasoning which maintains throughout a character of impalpable generality, reaches the conclusion already referred to, that the slave states which troubled themselves only with their own affairs, had suffered injustice after injustices which, between independent powers, would have led to war. In the attempt to demonstrate this in detail, attention was expressly called to the fact that the ordinance of 1787 ceased to have any force, by the adoption of the constitution, but it is forgotten that it was put in force again by the law of the 7th of August, 1789, and that it had reference to the then entire territorial domain of the United States. By this artifice,<sup>2</sup> the restriction of

<sup>1</sup> "They severally assumed the powers and rights of absolute self government." *Ib.* III, p. 1220.

<sup>2</sup> Here the learned and acute attorney general undoubtedly spoke through the mouth of the president. Caleb Cushing had, on the 14th of October, 1855, given an official opinion in which from the decisions of the Supreme Court of the United States in *Pollard vs. Hagan*, *Howard's Rep.* III, p. 212, *Perrell vs. City of New Orleans*, *Ib.* III, p. 389, and *Strader vs. Graham*, he concluded that the Supreme Court of the United States would have to declare the Missouri restriction "null" and void *ab initio*. In the first case mentioned it had been decided that the United States "never held any municipal sovereignty, jurisdiction or right of soil in and to the territory . . . except for temporary purposes." But this was by no means in contra-

the Missouri compromise was transformed into an innovation of very doubtful constitutionality, a violation of the

dictum with the right claimed for congress to prohibit slavery in a territory during its territorial condition, for that was only temporary. But municipal sovereignty - to use the expression of the court which I consider not only unhappy but incorrect - must have resided somewhere and no authority but congress could claim it. The theory of equal territorial sovereignty had not been invented in 1844, and not a word of the decision intimates that the supreme court had committed itself to it. In the other two decisions, all that was said was: First, that the ordinance of 1787 lost its force as law by the adoption of the constitution and that if any of its provisions had still any validity, that validity was not deducible from the fact, that they were to be found in the ordinance, but because they were contained in the cession treaties or in constitutional laws of congress, and; second, that in the states in question the ordinance had ceased to have any force by the transformation of the territories into states. Hence these decisions did not touch the right referred to of congress, in any way, for in respect to the first point the requirement of the Supreme Court of the United States was satisfied by the law of the 7th of August, 1789 and the second treated simply of the legal force of the ordinance in states. Cushing's claim had, therefore, no basis whatever. Hence, too, he had no right to introduce his concluding statement by a "for" since it was not an inference from the decisions of the supreme court cited by him, but moved the argument on to another ground entirely. This concluding sentence read: "For an act of congress, which pretends of right, and without consent or compact to impose on the municipal power of any new state or states, limitations and restrictions not imposed on all is contrary to the fundamental condition of the confederation according to which there is to be equality of right between the old and new states 'in all respects whatever.'" Opin. of the Attny Gen. VIII, p. 576. This objection was answered by the fact that no obligation was laid upon, but only the right granted to congress to admit new states into the Union. Leaving the slavery question therefore out of consideration it had never been doubted that congress, as a consequence, might attach conditions to the admission of a state into the Union. But however this might be, with respect to the claim made by Cushing, it was entirely irrelevant for the Missouri restriction affected territories and not states. The most superficial examination showed the reasoning of the opinion to be a tissue of the basest fallacies.

Where Cushing was not hampered by official responsibility he

equality<sup>1</sup> of the states guaranteed by the constitution and an attack on the existing rights of the south which, for the sake of peace and of the Union reluctantly resolved to make the sacrifice. The "re-annexation" of Texas is then declared a triumph of the living power of the constitution over sectional prejudices and the political errors of the day, because Texas was admitted as a slave state and it was expressly stipulated that it might be divided into several states, but the fact was passed over in silence that the act of annexation contained a new and express confirmation of the Missouri compromise. This decisive fact had to be suppressed, because the triumph of the slaveholding interest could not have been represented as a triumph of the constitution, if it had been mentioned. But Pierce not only wanted to show that the north had received its full share of the land acquisitions of the Union, but he had undertaken to prove that the south had always played the part of the lamb in the fable, and the north the part of the wolf. All the terrible victories of the slavery were constitutionally only the restoration to it of ground

went much farther. In a speech which he delivered on the 25th of October, 1857 in Faneuil Hall he made it appear as if in consequence of these decisions the Missouri compromise had become confessedly a dead letter at the time of the Kansas Nebraska bill. "In a series of decisions of the Supreme Court of the United States it was determined that acts of congress of this nature, restricting in advance the legislative power of a state, as to slavery or anything else, are null and void because contrary to the constitution."

Thus it happened that, when the time arrived for establishing the territory of Kansas, the Missouri compromise had become a dead letter on the statute book. It had ceased to have legal vigor. Congress had no constitutional power to revive it by legal enactment. To repeal it expressly was not an act of necessity, but of sincerity, of good faith, of frankness, of manliness, and it was done."

<sup>1</sup> This argument, as has been frequently shown, would have held only on condition that not individuals but states had emigrated into the territories.

previously wrested from it, or the claiming by it of ground which it had not yet lost. In order to prepare the way for such a representation of subsequent events, it was given to be understood that the annexation of Texas, by the conditions on which it was accomplished, was properly speaking the practical renunciation by congress of the right usurped by it in the Missouri compromise.

To the man who was skillful enough to turn the annexation of Texas to account in this way, the rest of the task could not be difficult. The territories are called "inchoate states;" in the next sentence the adjective "inchoate" is dropped, and the proof adduced that the Wilmot Proviso was an attempt to force views prevailing in certain states, by an abuse of the legislative power, on allied independent states. The compromise of 1850 frustrated this attempt and was, therefore, a new, great triumph of the constitution. It was certainly that, in Pierce's meaning, but for the object he had in view, what the south had already obtained by it, in respect to the territorial question, did not suffice. What was wanting he supplied by fiction. The compromise of 1850 had left the *status quo* subsisting in the territories, without deciding the question what the *status quo* was. The assurance that on their transformation into states, they might decide freely on the permission or prohibition of slavery was twisted by Pierce into the recognition of their right of self-determination in reference to this question, as territories. Frequently as this manœuvre had been branded as a bold fabrication its repetition could not be suddenly given up, for the untruth was the only foundation for the further claim that the Kansas-Nebraska bill had brought no new principle into application.

What was said on this point presented nothing remarkable. Leaving out of consideration the manner in which

the ordinance of 1787 had been drawn into it, and in which the annexation of Texas had been used, the wroth message contained nothing new. It only repeated what had been heard numberless times before, in the debates in congress, from the Democratic newspapers and from the stump, and what had frequently been said there much better and with much more effect. It was of importance only because never before had a message afforded so forcible an illustration of the bird which defouls its own nest. This deserved notice, not because it was significant as furnishing data for passing judgment on Pierce as a man, but because it allowed some conclusion to be drawn as to what was to be expected from the federal executive in respect to the Kansas question. If the dampening effect which the first elections after the adoption of the Kansas-Nebraska bill had seemed to produce on Pierce, had continued, he would have been able to discover forms which would have enabled him to appear as the attorney of the slavery in less revolting nakedness. In the garb of a cool, historical exposé, this part of the message was a defiant and insulting provocation of the majority of the house, and an announcement that he would not retreat one inch before it or before the Free-Soilers of Kansas. In opposition to the prophecies of eternal peace of which the advocates of the Kansas-Nebraska bill had been so prodigal, in the debates, events wrung from him the admission that even the "great principle" of popular sovereignty did not prevent the possibility of evils in its practical application. He claimed that, in this case, the evils were solely the consequences of the abuse of principle, but, of course, did not inquire whether this abuse was not the inevitable consequence of the circumstances. On the other hand, he declared that the evils were disappearing before the intelligence and patriotism of the people who exercised their

peaceable, silent but irresistible power through the ballot-box. He did not speak in the future, but in the present tense, and his ever convenient memory again lost all recollection of the laws of the territorial legislature which had wrung that weapon of protection from the people.

With this short and very general criticism, which, to all previous falsifications of history, added one more, by suppression, all the frightful illustrations of the great principle of Popular Sovereignty, furnished by the law and order party and its accomplices from Missouri, were disposed of. The message immediately turned to the blind and fanatical who stood in permanent conspiracy against the south, and for them the president had leisure enough and paper enough to spare. He declared that the friends of the constitution could choose no better battle field, if the struggle were to be renewed to refuse a state admission into the Union, because it permitted slavery. With a touch of humor, he claimed that the people who had branded the repeal of the Missouri compromise as a breach of faith, had thereby broken the "express compact" made with Texas. This absurdity was immediately followed by a long and menacing Cassandra-like warning. Pierce becomes the mouth piece of the southern Fire Eaters and announces that the inevitable consequence of the rejection of Kansas on account of the slavery question, would be the dissolution of the Union - the dissolution of the Union, because the mad passion of fanaticism and of party spirit, for the sake of the alleged interests of a relatively small number of negroes, disregarded the interests of 25,000,000 Americans and trampled all moral and constitutional obligations under foot.

Much as the utterances of the president were wanting in clearness, logic, impartiality and truth, there could be no doubt that he considered the situation a very difficult



one. Spite of his remark referred to above, on the salutary power of the ballot-box, he had not said or given it to be understood, that in his opinion, matters might be let to take their own course, but he had made no suggestions himself nor had he, in the stereotyped manner, commended the matter to the wisdom of congress. From this it could not but be inferred that he intended shortly to send congress a special message on Kansas. But it must have caused surprise that he did not wait until the house of representatives had organized. Perhaps the reason for this was to some extent that he thereby expected to exercise a certain amount of pressure, but it is more probable he saw that delay was dangerous. The message of the 24th of January did not, indeed, give plain expression to this, but a passage at its close might be looked upon as a direct intimation to that effect. United in one sentence were the declarations that the serious troubles of December had been quickly settled without the shedding of blood and in a satisfactory manner, but that it was to be feared new troubles with an increasing tendency to acts of violence would follow until the question which gave occasion to them had been settled by a decisive measure of some kind.

It is not to be assumed that the most recent events in Kansas first brought Pierce to this view, but it is certain that they contributed to confirm it. On the 15th of January the state elections under the Topeka constitution had taken place. Great interest was taken in them, but of course only by the Free-Soilers. Yet in accordance with a resolution of the Topeka convention, the actual organization of the state government was not to be tried before the 1st of March, because it was hoped that by that time, congress would have reached some conclusion on the request for admission as a state. In Leavenworth, the election was prohibited by the mayor who belonged to the

pro-slavery party. The judges of election, therefore, adjourned it for that district to the 17th of January, and secretly circulated the information that the ballot-boxes must be set up at a certain place, in the vicinity of Easton. Their intentions, however, became known and during the night a lively skirmish occurred between some home-bound Free Soilers and the notorious Kickapoo Rangers. As it was impossible to take accurate aim in the dark, comparatively little blood was shed, but one of the fanatics of the law and order party lost his life. On the following day, the Rangers took bestial revenge. They laid wait for some of their opponents of the night before, and when the latter, without attempting any resistance, being overpowered, had surrendered their arms, their leader, E. P. Brown, who had been separated from his associates, was after long deliberation struck down with axes, thrown into a vehicle in a dying condition and taken to his own home where, immediately after his arrival, he died in the arms of his wife. But the Kickapoo *Pioneer* exhorted the law and order party to raise the war cry through the land until lead and iron had completely rooted out the abolitionist rabble.<sup>1</sup> On the 21st and 23rd of January, Lane and Robertson telegraphed to the president informing him that a great invasion was preparing in Mis-

<sup>1</sup> 'Forbearance has now ceased to be a virtue, therefore we call upon every pro-slavery man in the land to rally to the rescue. Kansas must be immediately rescued from the tyrannical dogs. . . . Pro-slavery men, law and order men, strike for your altars! strike for your firesides! strike for your rights! sound the bugle of war over the length and breadth of the land and leave not an abolitionist in the territory to relate their treacherous and contaminating deeds. Strike your piercing rifle balls and your glittering steel to their black and poisonous hearts. Let the war cry never cease in Kansas again, until our territory is wrested of the last vestige of abolitionism.' The *Kickapoo Pioneer*, Jan 18, 1856. Cited by Gladstone, *The Englishman in Kansas*, p. 24.

souri and praying for the issuance of a proclamation,<sup>1</sup> as well as for the employment of the troops stationed in Fort Leavenworth, for the protection of the territory.

The fear felt by the president that the peace concluded by Shannon in Lawrence would be only an armistice of short duration was, therefore, already realized. Who could still doubt the correctness of his further allegation that the troubles would continually increase and assume a more and more malignant character, until the slavery question was finally settled? That he and his party would never admit that this fact was a condemnation of the experiment with the great principle of the Kansas-Nebraska bill was self-evident. They inferred from the state elections of January 15, and their opponents from the murder of Brown and the new projects of invasion of the Missourians, that the history of the struggle for Kansas had not been brought to a close with the two chapters written, but greatly as they differed in respect to the causes they truly agreed, as the *Kickapoo Pioneer* said, that the war-cry in Kansas would be heard, so long as the continuance of the struggle had any object. So long as Kansas had not been admitted as a state into the Union, it had an object, for so long none of the parties needed to give up its cause as lost. It was, therefore, entirely correct when the message concluded with the proposition that a law should be passed authorizing Kansas to elect delegates to a constitutional convention, in order to effect its admission into the Union as a full member of it, in a legal and orderly manner. But on the

<sup>1</sup> " . . . organizing on our border, amply supplied with artillery, for the avowed purpose of invading our territory, denouncing our towns and butchering our unoffending free state citizens. He also subscribed himself as ' chairman of the executive committee of Kansas Territory.' Congt. Globe, 1st Sess., 34th Congr., App., pp. 64, 115.

other hand, it seemed questionable whether, under the extraordinary circumstances that prevailed, it was right to make any restriction as to the number of inhabitants. But this might properly be postponed until a satisfactory answer to the principal question had been reached, whether, under these extraordinary circumstances, the possibility of orderly and legal elections existed, or whether at least it might be considered certain that the president would honestly and energetically do his best to prevent a falsifying of the real will of the population possessed of the right to vote, by irregularities and violations of law. The message gave an answer of terrible plainness to this last question.

Pierce designated the Emigrant Aid Societies as the prime and real authors of the troubles, since they had by propagandist colonization, endeavored to prevent the free self-determination of the population, after it had appeared that the principles of non-intervention and popular sovereignty had become ineradicably fixed in the convictions of the people.<sup>1</sup> This systematic interference in the affairs of the territory had naturally excited the greatest acrimony in contiguous Missouri whose domestic peace was most directly menaced by it, but it in no way justified the illegal counter-measures. This one wicked saying by which he proved his complete impartiality and saved his conscience, the Border Ruffians could overlook, since he did not draw the least practical consequence from it. When referring to the elections to the territorial legislature, he contented himself with declaring that bitter complaints had been made, on all sides, of the casting of illegal votes, but did not intimate, by so much as a syllable, whether these complaints were well founded or what party

<sup>1</sup>The composition of the house of representatives to which he sent the message was the best commentary to this last allegation.

had reason to complain. He only showed the complete legality of the legislature in consequence of the granting of the election certificates by the governor, and claimed that the decisions made by the latter and by the officers of election were final.

This was objectionable in two respects. That the formal legality of the legislature could not be questioned has been already shown. From the point of view which the judge is obliged to take, this might suffice to warrant its legality to be called complete, but the statesman was not justified in expressing himself, to say nothing of his being obliged to express himself, satisfied, if he looked upon the alleged grievance as well founded, to have the legal sanction wrongly given, because the elections were notoriously illegal. The judge has to pass sentence in accordance with the law, and hence has, in such a case, to be content rebukingly to say that such a grievous wrong committed by such bold violation of the law, has acquired the force of law; but the statesman was obliged to raise the further question whether the political authorities in this conflict between statute law and right, could not help insuring victory to the latter. As the president who had to execute the laws, Pierce's hands were bound like the hands of the judge, but Pierce as president who in accordance with his constitutional obligation reported to congress on the condition of the country, was not only free but obliged to view the matter from the standpoint becoming the statesman. Yet he suppressed the fact that the illegal and reprehensible counter-movements which he had censured a moment before were in the first place an oppression of a part of the population of the territory, in the elections, because he did not want it to be seen that there was a conflict between law and right; and he did not want it to be seen, because he did not harbor the wish to bring about

a solution of the problem in accordance with the demands of justice; and because he did not wish to do that, he relied on the formal legality of the legislature and declared it to be complete. If congress was under all circumstances obliged to recognize the legality of the legislature as complete, because formally unassailable, it did not need to be said now that the decisions of the officers of election and of the governor were final. But the question was whether the legislative power of the Union was not a constitutionally competent court of appeal.

Pierce had previously found fault with and lamented the fact that Reeder had not caused the elections to the territorial legislature to take place at the same time as the election of the territorial delegates, for the reason that the qualifications of the voters would then have been controlled by congress, which had to pass on the validity of the election of delegates.<sup>1</sup> This was not correct. Not congress but only the house of representatives was the judge of the validity of the election of delegates, but if the elections to the legislature could be declared invalid for federal reasons, it could be done only by congress and not by the house of representatives. That the elections to the legislature did not become invalid simply for the reason that the house of representatives invalidated the election of delegates, because the lawful voters had been offered violence by persons voting unlawfully, is obvious. Hence nothing was gained by the fact that the invasions of the Missourians, and their illegal voting came up for discussion in the house of representatives. The territorial population could obtain their rights only provided congress was authorized to

<sup>1</sup> " . . . any question appertaining to the qualification of the persons voting as people of the territory would have passed necessarily and at once under the supervision of congress." *Statesman's Manual*, III, p. 2150



invalidate the elections, spite of the granting of the certificates of election. But if it had this power then, it must have it now too, for the right of the house of representatives to decide on the validity of the election of delegates had nothing in common with this question. As Pierce did not claim and could not claim, that Reeder, if the two elections had taken place at the same time, could not have issued the certificates of election for the legislature, until the house of representatives had reached a conclusion as to the validity of the election of delegates, the vague and constitutionally impalpable statement about the control of congress either meant nothing or it denied the later assertion that the decisions of the officers of election and of the governor were final. Pierce immediately qualified this assertion to some extent, by saying that the president had no legal authority in respect to this question and that he had had no such authority at any previous time. Whether this was true or false was not the question now.<sup>1</sup> He indirectly granted that the competency of congress might be a disputable question, and hence he should have called upon congress to discuss and decide it, if it was of any concern to him that the right and the great principle of popular sovereignty should not be buried under the weight of the dead letter of the law. But he at one moment lifted up the "great principle" and the next the dead letter of the law as his standard, just as the slave-holding interest demanded. The Free Soil party of the territory could not appeal either to the former or to the latter, and was obliged to hear it claimed that it based its opposition solely on a silly literalism because it could find no other foundation. It had from the beginning sought to justify its entire action by the claim that the

<sup>1</sup> This question has been already discussed.

Missourians with the assistance of federal officials had trampled the principle of popular sovereignty under foot, and Pierce declared that it relied only on the alleged illegal transfer of the legislature from Pawnee to Shawnee. A clumsier device than this substitution of Reeder for the Free-Soil party, a pettifogger could scarcely have imagined.<sup>1</sup> This last gross piece of falsification excluded all doubt as to his *mala fides*. Now followed the announcement of the position which the president would take on the Kansas question, and it was the policy of the blind party man in the guise of the conscientious guardian of the law. The objections of the Free-Soil party to the complete legality of the territorial legislature and to the validity of the laws passed by it must be put down as absolutely untenable and as in the highest degree frivolous, to warrant one to declare its extra-legal course in respect to the transformation of the territory into a state, revolutionary. If the legality of the territorial legislature was not, although formally unassailable, still an open question, it was such in fact, for the constitutional convention at Topeka and the state elections of the 15th of January, had been held not only without any authorization from congress, but spite of the legislature and in

<sup>1</sup> "It will be perceived that, if any constitutional defect attached to the legislative acts of the assembly, it is not pretended to consist in irregularity of election, or want of qualification of the members, but only in the change of its place of session. However trivial the objection may seem to be, it requires to be considered, because upon it is founded all that superstructure of acts, plainly against law, which now threatens the peace, not only of the territory of Kansas, but of the Union." *Statesman's Man*, III, p 2131. The words just quoted have reference to Reeder's controversy with the legislature and hence the first sentence, if it stood alone, would be quite correct, since it would then relate only to Reeder. The substitution is effected by the claim contained in the second sentence.

direct opposition to it and to the laws it had passed. But even if these steps, looked at from a strictly juridical point of view, must be considered simply a revolt against lawful authority, political wisdom—to say nothing of the requirements of justice—demanded that the legal consequences flowing therefrom should be drawn with the utmost forbearance, in order that differences might not be still further aggravated. The very next sentence of the message menacingly said that out of revolutionary opposition to the territorial powers treasonable insurrection would grow, if it were to swell to organized forcible resistance to federal laws and the authority of the federal government, but showed that Pierce intended the very contrary. The leaders of the Free-Soil party had urgently requested him to employ the federal troops stationed in the territory for its protection, and to issue a proclamation. Hence there was not the least occasion for this warning which gave expression only to something very obvious, unless, as Wilson says, he wished to give it a stone instead of the bread it had asked for. Was it really intended to warn the Free-Soil people, or was the remark meant to produce the impression that the worst might, at any moment, be expected of them?

Pierce repeated the untrue assertions of the annual message that the Free-Soilers were the assailants,<sup>1</sup> and that the ballot-box was a sure and speedy means of changing the government and the laws when they did not cor-

<sup>1</sup> "Interference on the one hand, to procure the abolition or prohibition of slave labor in the territory has produced mischievous interference on the other for its maintenance or introduction. One wrong begets another." *Statesman's Man*, III, p. 2134. With what right does he speak of the abolition of slavery? Did he not now recognize it, explicit popular sovereignty, as an open question whether slavery—by virtue of the constitution or independently of it—existed in every territory until abolished by law?

respond with the will of the people. In his eyes, therefore, they were perverse men whose revolutionary opposition was entirely inexcusable; there was not a word to show that he even recognized the existence of mitigating circumstances of any kind. Hence they had no one to blame but themselves if the arm of the law fell upon them with all its weight. They had no claim to forbearance, and even if they did have such a claim, he was not justified in granting it. The president, he said, had not to judge whether a law was wise or unwise, just or unjust; if it be constitutional, that is if it be a law, it is his duty to enforce it. If this was not only the truth but the whole truth, the president was only like the hangman, a species of execution machine. True he should not leave a law unexecuted because he considered it unwise or unjust, but the framers of the constitution had not, on that account, deprived the first official of the republic of all right to a judgment and to a will of his own. He was not only entitled, but it was his duty, to tell congress when, in his opinion, unwise or unjust laws imperilled or injured essential rights of the states, to give the reasons for his opinion and to advise the amendment or repeal of such laws. He had, moreover, to judge and decide not only whether a violation of law had been committed, but also whether his interference was proper or called for and in what way that interference should take place. And because all this was his right and his duty, all his doings and omissions were under the full weight of the moral and political responsibility which rests on the shoulders of the head of a state. He said himself that the ball of destiny was rolling down a precipitous declivity. If as a consequence of any action or omission of his, it dropped into the abyss, he could not protect himself by saying that he had only enforced the laws. What he said as to how he thought

of fulfilling that duty, in this definite case, was not calculated to open a more assuring or hopeful prospect into the future; the ball's course was not to be checked, by him; rather did he wish to speed it onward by a powerful impulse, unless the Free Soil party, in the territory, submitted unconditionally.

To be sure Pierce does not say this in so many words. He knows only the duty to enforce the laws, and therefore measures both parties with the very same measure. With the same measure? As if that would still have been possible! The pro-slavery party had obtained all it wanted through the territorial laws, it had hedged around the "peculiar institution" with stronger legal safe guards than any slave state had. To enforce the laws, meant to guarantee to the pro-slavery party the possession of everything which it had gained by force and fraud. It, therefore, should, in justice, have been completely satisfied if the president attended to the duties of his office as enforcer of the laws, without paying any attention to the question against whom their edge was turned. And apparently he promised to do that. After calling attention to the fact that he might place at the disposal of the marshal, as a *poise comitatus*, the federal troops stationed in the territory, and if these were not sufficient, employ the remaining armed power of the Union as well as the militia of one or several states, he sums up his whole reasoning in the declaration that it is his imperative duty to summon all the power of the federal executive to maintain public order in the territory, to assert the supremacy of the federal and territorial laws against all attempts at organized resistance and to protect the population against all interference from without in the right guaranteed them by the constitution to determine the character of their institutions and to govern themselves.

But, on closer examination of the foregoing utterances it became apparent that this concluding sentence meant in reality the very reverse of what it pretended to mean.

Pierce had before this emphatically declared that a request of the territorial authorities for the aid of the federal government would be granted, if they could not protect themselves from invasions of citizens from other states—whatever object such invasions might have.<sup>1</sup> Was this declaration directed only against the Missourians? He had previously characterized propagandist colonization by the Emigrant Aid Societies as the cause of all the troubles and as an unwarranted interference in the affairs of the territory, which would necessarily be followed by counter-movements on the part of the neighboring slave states and especially of Missouri which bordered on the territory. If this propagandist colonization continued and assumed perhaps still greater proportions, that is if a great number of Free-Soilers immigrated, a part of whom were assisted in any way by the Emigrant Aid Societies, was this immigration too an invasion,<sup>2</sup> to oppose which the aid of the federal government was to be granted at the request of the territorial authorities? Should the suspicion that this was the right interpretation of the declaration be dismissed simply because it imputed an enormity to the president? The next sentence contained the answer to this question. Pierce continued to say that it is not the duty of the president to volunteer interposition by force to preserve the purity of elections in a state or territory, for that would be to subvert public liberty. The legal relation of

<sup>1</sup> " . . . whether for the purpose of deciding elections or any other " *Statesman's Manual*, III p. 2453

<sup>2</sup> The sentence in the message is still more general in character than appears from the text, since not the noun but the verb is used. "if the territory be invaded."



the president as well as of the other federal authorities to the states, and their legal relation to the territories are essentially different, and hence it was a mere trick of the pettifogger to drag the states in here, where there was no question of states at all. The principle thus stated, however, could not be assailed, even so far as the territories were concerned; it was nothing more than a commonplace. But the message was not a theoretical treatise on constitutional doctrines; it was a political manifesto and had to do with a concrete political question. Hence this sentence had to be read in connection with the declarations already mentioned, in the light which the events of the past year threw on the message, and no one could read it in that light without the scales dropping from his eyes, even if he had allowed himself to be deceived up to this time. Pierce tore the mask from his face with his own hand.

Why did Pierce here speak only of the duty of the president? If this had been a case in which states and only states were interested, there would not have been the least doubt that he had no *right* to volunteer interposition and he would have so stated, because it meant a great deal more. But it was the case of a territory and only of a territory. Whether he did not have the right to such an interposition in a territory under certain circumstances was a very different question, and if that question were answered in the affirmative, the further question had to be raised and answered whether in this particular case, spite of the general rule correctly given by him, the exercise of that right was not his duty. Even if one wished to admit that these questions might be answered very variously both from a constitutional and from a political point of view, it was undoubted that they must be raised and weighed with the most scrupulous conscientiousness,

because the history of the Kansas troubles thus far had made it clear that otherwise the doctrine of the message would unconditionally place the whole power of the federal executive at the disposal of the pro-slavery party of the territory. On the one hand, the declaration was made without any limitation, that, if it should be necessary, the state militia and the armed power of the Union would be summoned to suppress any attempt at organized resistance to the federal or territorial laws, that is that no tugging at the chains in which Kansas had been bound by the Border Ruffians should be endured; and, on the other hand, the assurance that steps would be taken against renewed acts of violence by the Missourians was coupled with the provision that the territorial authorities, that is the agents of the federal executive and the creatures of the Border Ruffians, should request such interference. The promise to protect the right of self-determination and self-government against interference from without was, therefore, turned, so far as the Free-Soilers were concerned into a piece of mockery by this provision, for that their oppressors would not call upon the president to oppose themselves and their own action was self-evident; the latter, on the other hand, might hope that they would not ask in vain for his intervention against the propagandist colonization, if the influx of the Free-Soilers should reach proportions large enough to make it seem advisable to call it an invasion.

Pierce had indeed had reason to characterize the situation as one of terrible seriousness. It would have been a frightfully grave one, even if a Washington had sat in the presidential chair, but it was all the more so, as Pierce who had convicted himself of being a party man of the worst kind, held it. Even the brutal regardlessness of consequences of a Jackson would have been less dangerous

than this mendacious, hypocritical sophistry. Jackson with his self-conscious frankness would, by his vigorous action, have at least introduced clearness into the situation, while Pierce behind the mask, of guardian of the law and Catoic severity and faithfulness to duty, by his lawyer-like arts, complicated it more and more, that, in the name of the law and the constitution, justice and right might be trampled in the dust. The times were becoming more and more violent, and the men to whose hands the ship of state had been confided became more and more petty and more impure. Deceit, cunning and hypocrisy threatened to become the sole substance of their statesmanlike wisdom; and yet one feels more tempted to pity than to upbraid them, for they deceived not only the people but themselves, and were condemned to reap the fruit which was grown and matured not only by their own and their predecessors' wrongs and sins, but by the power of material circumstances, from the seed the poisonous nature of which no one recognized, when centuries before, it was planted in the ground as an insignificant grain. But however their guilt may be estimated, their policy guided the ship before the storm on to the wild breakers. The Democratic party by its mendacity which ate deeper and deeper, labored with giant power at its own destruction, and thus did that which more than anything else accelerated the coming of the inevitable catastrophe. The process of its internal dissolution had already gone so far that the party had become incapable of solving any positive problem; but in the problem or task of destruction, it was able, as compared with the unorganized crowd of its opponents, to develop enormous strength, because by deceit and force it had made the letter of the law its servant. From the president it had now formally received, before the entire country, the assurance that he would use this advant-

age which it possessed to the fullest extent. That the majority of the senate would support him in this with all their strength was obvious, and from the ranks of the opponents the expectation expressed by the attorney-general in the official opinion above referred to, that the slavery might count just as confidently on the Supreme Court of the United States, was emphatically confirmed. Would, could the skill, energy and fidelity to conviction of the plurality in the house of representatives made up of the most various elements loosely held together and who had just chosen Banks as speaker suffice now to take up the struggle against the three other factors of government, with any prospect of success?

On the 26th of January, Dunn moved a resolution in which the restoration of the Missouri restriction was declared a necessary and certain means to revive the concord and harmony between the states of the Union essential to the welfare of the country and the permanence of its institutions.<sup>1</sup> If the view represented by the resolution was well founded, the welfare of the country and the permanence of its institutions must have been in a bad way, for the resolution was adopted by a majority of only one vote—101 against 100—and the very opposite claim was made, that the restoration of the Missouri compromise would undoubtedly be followed by the dissolution of the Union.<sup>2</sup> A part of the minority had already gone even

<sup>1</sup> Congr. Globe 1st Sess. 34th Congr., p. 300.

<sup>2</sup> M. Mullin of Virginia had said in the senate, Dec., 1855: "Our northern brethren mistake the character of the south. They suppose that the southern disunionists are confined to the Calhoun wing of the Democratic party. That, sir, is the greatest error that the people of the north have ever fallen into. And I tell you, sir, and I want the country to know it . . . that if you restore the Missouri compromise, or repeal the Fugitive Slave Law, this Union will be dissolved. (Laughter, and cries of 'Oh, no!') Gentlemen, laughing is

a great way farther than this, in their declarations. The restoration of the Missouri restriction was of course possible only provided the Republicans had a majority in the two houses of congress and there were a Republican in the presidential chair. But Boyce of South Carolina had, on the 4th of January, announced that the Union would be *ipso facto* dissolved, the moment supremacy passed into the hands of the Republican party.<sup>1</sup> This was proof of the fact that the south valued slavery more than it did the Union. "To rule or ruin" was the motto of the slavery, because circumstances left it no other choice. The remaining of the slave states in the Union depended on their political supremacy in it as a condition precedent, for the democratic spirit of freedom (leaving slavery out of consideration), the vital principle not only of the federal constitution but of the institutions of all the individual states sprung from the character of the people and from actual circumstances, the moral-religious consciousness of the age and the tendencies and factors which were daily growing in strength in the economic life of the entire civilized world, came into more and more flagrant and universal contradiction with slavery; and the slavery had to oppose to the onslaught of all these forces only the artificial safeguards which it had caused to be erected for itself by inconsiderate misuse of the political powers. But its opponents did not yet understand that they made the continuance of slavery impossible by breaking the power of the slavery, and hence they did not believe that the Union was seriously menaced. The nearer they

no part of our duty. If laughing were arguments, the subject would be well argued here today, but this is no laughing subject." *Ib.*, p. 61.

<sup>1</sup> *Ib.*, p. 144. So too, subsequently, Shorter of Alabama, *Ib.*, App., p. 326.

brought the catastrophe, by their endeavors, the firmer became their conviction that what in reality was simply an announcement was an empty threat. The majority of them did not answer with Hale that all the fighting would not be on one side, if the south really, as Jones of Tennessee had stated in the senate, on the 25th of February, was to begin a war to the knife,<sup>1</sup> for they believed with Seward that the slave states would soon return, if they kept their word and seceded.<sup>2</sup> But it was precisely the hotspurs of the party who did not grant this possibility. Wilson had on the 13th of July, 1855, in the Republican state convention of Indiana, at Indianapolis, called all threats of secession "idle talk,"<sup>3</sup> Granger of New York now declared

"The Senator says there may be a power that shall say, 'Thus far shalt thou go, and no further.' Good! good! Sir, I hope it will come; and, if it comes to blood, let blood come. But I tell your president of the United States, who threatens to send his myrmidons to shoot down the free inhabitants of Kansas, let him fire. I tell you the first federal gun that is fired to shoot down one of those inhabitants will echo and reverberate over the hills and the valleys of this land, and he will find that, like Rhoderic Dhu's men the freemen will come up, and the fight will not be all on one side. No, sir; if that issue must come, let it come, and it cannot come too soon. . . . the senator from Tennessee closed his speech with the illustrious figure of the bowie knife, and he threatens that we shall have war to the knife, and the knife to the hilt. Sir, Puritan blood has not always shrunk from even those encounters; and when the war has been proclaimed with the knife, and the knife to the hilt, the steel has sometimes glistered in their hands, and, when the battle was over, they were not always found second best." *Congr. Globe*, 1st Sess., 34th Congr., p. 496.

"If ever they shall, in a season of madness, secede from that Union and provoke that war, they will—soon come back again."

"Nor are these threats the threats of slaveholders themselves. They are arguments of politicians in behalf of the slaveholders." *Seward's Works*, IV, p. 248.

"The south talks of disunion. It is idle talk. No, they don't believe it themselves. They dissolve the Union! They constitute but one-third of the population, and one-fifth of the power of the country,



them (March 18, 1856), "silly nonsense,"<sup>1</sup> and Wilson soon rose to the eminence of making the assertion that the people who uttered these impotent threats could not even be gotten out of the Union by kicks.<sup>2</sup> The leaders of the new party which was forming spoke in this way, while, in the south, were heard even now voices which demanded that the scandalous talk about the "glorious Union" should be made an indictable crime, until the gang was crushed out,<sup>3</sup> to whom, as others confessed, the future in the north must belong.<sup>4</sup>

It could not but be that, sooner or later, the fact that the true situation of the slavery was so little understood, and that, therefore, people deceived themselves so greatly as to the seriousness of these threats, would bear bitter fruit. But in this fact there was in the beginning an element of strength for the opposition. The formation of the Republican party would have been rendered very diffi-

and they have that element of destruction among them of which Jefferson said: "No man could lay his head upon his pillow in safety in the midst of it." The south don't mean to dissolve the Union. "They know that it is their social, political, and, I had almost said, their eternal salvation, to remain in the Union." *The N. Y. Tribune*, July 18, 1855.

<sup>1</sup> "Such threats are idle: they cease to disturb. Like the rattle in the tail of a toothless snake, they are heard without alarm. Dissolve this Union? Who dissolve it? The north will not. The south dares not. The world in arms cannot. Away with such silly nonsense!" *Congr. Globe*, 1st Sess., 34th Congr., p. 679.

<sup>2</sup> "Sir, you cannot kick out of the Union the men who utter the impotent threats." *Ib.*, *Append.*, p. 304.

<sup>3</sup> "The words 'glorious Union' should be made indictable, against the peace and dignity of the commonwealth, and the craves who shout them on every indecent occasion, ought to be pilloried and cropped of their long ears, for contempt of the commonwealth from now until Seward and his party are crushed by an overwhelming northern vote." *The Richmond Examiner*, Oct. 19, 1855.

<sup>4</sup> Boyce in the speech cited. *Congr. Globe*, 1st Sess., 34th Congr., p. 144.

cult and greatly retarded, if people had been clear as to the consequences. This ingenuousness was the best guaranty that the majority of the house of representatives, small as it was, would carry on the struggle for Kansas with a determination and tenacity which might perhaps accomplish all that could be accomplished, that is, transmit the Kansas question to the next congress and the next president, as an unsolved problem. If this happened, all the victories which the slaveholding interest had thus far won by the Missourians and the president, would be not only fruitless, but would contribute to its ruin. Pierce would then be all the better combatant for freedom, the more zealously and successfully he labored for the complete triumph of the slavocracy, by placing himself entirely and exclusively on the ground of accomplished facts, that he might be ever able to create new facts which opposed to its opponents an insurmountable rampart.

On the 11th of February, he followed the Kansas message by a Kansas proclamation.<sup>1</sup> In the house of representatives, no motion had been made on the part of the majority, from which any thing could be learned as to their plan of operation, and in Kansas nothing remarkable had happened, since the murder of Brown. There was therefore, no immediate occasion for this new step on the part of the president. Yet, the step could not surprise anyone, for if Pierce wished to carry out the programme intimated in the message, he had, in accordance with traditional usage, to inform the people of it, in this solemn form. The message not only announced to the people what he had said in his message to congress; it did more: Pierce in it proceeded from words to action. But people had not surrendered themselves to the illusion that he

<sup>1</sup> Statesman's Manual, III., pp. 2135, 2136.

would not venture to keep his word, and considering his way of looking at the political and constitutional question, there was not the least reason why he should delay doing so. That the Free-Soil party of the territory had neither been converted by the reasoning of the message, nor so terrified by its threats, that their submission could be expected, was beyond a doubt, and hence one of the cases arose in which according to the doctrine of the message the employment of all the means at the command of the federal executive, for the maintenance of the supremacy of the law, became the imperative duty of the president.

Pierce of course did not justify the issue of the proclamation in this manner. That document did not say that the slavery question had anything whatever to do with the troubles in Kansas, but only in a very general way that the territorial authorities did not meet with the obedience due them, and that citizens of neighboring and distant states were attempting unlawful interference in the internal affairs of the territory. And the president did not need to say more, for, so far as Kansas was concerned, he had no wish and no will regarding the slavery question. The organic law guaranteed the territory the fundamental principle of American nationality, the right of self-determination, and it was not only the sworn duty of the president, but in harmony with his own firmest convictions, to see to the unabridged exercise of that right. He should not and would not inquire who opposed the laws, or why they were opposed. He told the citizens of the neighboring states who contemplated armed intervention, as well as the inhabitants of distant states who were collecting money, enlisting men and procuring arms for the same object, (!) that he would summon not only the territorial militia but also the federal troops to protect all law-abiding inhabitants of the territory against any intringe-

ment of their rights. The proclamation does not say one word about the slavery question, and there is not a word in it to suggest that the president harbored the views of any party, to say nothing of his endeavoring to promote the interest of any party. The person who reads this manifesto without knowing its previous history will bend respectfully before the man who knows nothing of friends or foes, but only of his duty and of justice in the exercise of his office. But when that previous history becomes known, the brilliant soap-bubble bursts and falls a dirty drop to the ground. The real substance of the proclamation was contained in a single word. If there had been question of nothing but the constitution, the laws of the Union and the organic law with Pierce, he would have saved paper and ink, for the Free-Soil party did not wish to insult their "majesty;" resistance to the territorial laws which had bound the territory in chains and handed it over to the slavocracy was the insurrection which he promised to suppress by armed force. On the 15th of February, the secretary of war, Jefferson Davis, sent orders to colonels Sumner and Cooke to place themselves to that end at the disposal of governor Shannon, together with their troops.<sup>1</sup>

Two days before the appearance of the proclamation, the New Hampshire *Patriot*, the organ of the administration, published in the president's own native state, had declared the Kansas-Nebraska bill the most glorious and fruitful victory which had ever been won in the United States for the cause of freedom; even the most zealous abolitionists had to be satisfied and offer up praise and thanksgiving for the wonders it had already worked and which it would undoubtedly work in the future.<sup>2</sup> The

<sup>1</sup> *Sep. Doc.*, 1st and 2d Sess., Vol. XI, No. 23, p. 30.

<sup>2</sup> - Should not such prospects satisfy the most zealous abolitionist?

Detroit *Free Press*, Cass's organ which had likewise lauded the Kansas-Nebraska bill as the triumph of freedom, was not now in the mood to sound such notes of jubilation. On the same 9th of February, it warned the president against treating the resistance of the Free-soil party to the territorial legislature as treasonable insurrection, for never had a revolution been more justifiable! Was it supposed, in the White House, that the people were ripe for Bedlam, and that they could be served up with such articles as that in the New Hampshire *Patriot*, while the message of the 24th of January still constituted the universal topic of conversation, while the proclamation of the 11th of February was sent to the printer and the organ of one of the inventors of "popular sovereignty" dared to say that apples of Sodom had grown on the tree of the "great principle" and that the policy of the administration threatened to turn men's gall into a deadly poison? What Pierce might be able to accomplish with his dragons remained to be seen, but in the arsenal of

Should not the part only which is moral certainty create the most devout thanksgiving? Utah, New Mexico, Nebraska, the territory of a dozen future independent states, and Kansas, all sure to be free, besides two or three to be carved from Texas, and Missouri itself to be free! who could expect so much? Who asks for more? The abolitionists have harangued for freedom, preached for freedom and, as they say, prayed for freedom over this vast territory—should they not thank Heaven and be content when they receive what they asked?

"Indeed, they now admit, almost without an exception that such results have been secured by the Nebraska bill—results grand, permanent and glorious such as no single act of congress has ever before secured.

"The Nebraska bill works gloriously and triumphantly for freedom. No act of any president or any congress has secured so much and so suddenly and so easily for liberty.

"If there was ever justifiable cause for popular revolution against a usurping and obnoxious government, that cause has existed in Kansas."

lying phrases it was scarcely possible to find arms which could render any service. That the northern men with southern principles would never give up such armor was certain, but those who followed them did so no longer because they believed those phrases but from other motives, sometimes honorable and sometimes dishonorable. No fog can stand before the dog-days' sun; the mists may roll up into a thunder cloud, but the scorching rays do not permit them to cling to the ground like a deceptive veil. The *Montgomery Mail* had already hailed the result of the elections to the 34th congress with lively satisfaction because now the era of duplicity and hypocrisy was closed and the south knew exactly who were its friends and who were its enemies.<sup>1</sup> It had not then nor even now come

"Concerning the slavery question, the south has not been for many years in so quiet a mood. There is a perfect placidity of sentiment throughout the slave states. We have no indignation meetings—no torrents of declamation and denunciation—no fiery threatening resolutions. For all these there is a deep, deep calm. And the reason is, that at length, after decades of bickerings, the whole section is agreed that the day is at hand. At length—at length, and for the first time in many a long year—the south occupies her true position, untrammelled by those accursed 'compromises,' and looking only to the constitution for the measure of her rights. For the first time, too, she sees her fanatical enemies clothed with full power to do their wildest, in the house of representatives of the United States. And thus there is made, for the first time, the true issue between the north and the south. . . . The day of hypocrisy and duplicity will be over; our friends will be our friends, and our enemies our enemies.

"There never was a time so full of hope for the south and for the maintenance and the extension of slavery. The wit of man could not devise for us a better relation than that which we occupy to the forces of free-soilism. We battle not for half our rights, but for the whole.

The south can only fail of success and a bright future, on a supposition which is almost an insult to her to make—that she would consent to remain in the Union, after one branch of the national legislature had made a deliberate attack upon her rights by a repeal of the Fugitive Slave Law, or the passage of a bill abolishing slavery in the District of Columbia.



to this, but consciously or unconsciously, intentionally or unwillingly, it was coming to it on all sides, irresistibly. Facts spoke so loud and so powerfully, that the intellect and conscience of the people could no longer be bound by constitutional subtleties. The adepts of the old school who, at the dawn of the new era, still possessed the larger part of the political stage, refused of course to see this, because they could not conceal from themselves that their remaining political capital did not suffice to enable them to maintain their place. They, therefore, tried their old arts once more, but all they achieved was that they were the sooner buried, without parade or ostentation, if not with scorn.

On the 18th of February, the National Council of Know Nothings met again in Philadelphia. When one recalled the exciting, and as was universally believed, the very significant proceedings at its last meeting, and then looked at the delegates from the free states, he was confronted by an enigma. It was, indeed, impossible to ascertain the relative number of the friends of freedom and of the conservatives, for many of the gentlemen could not tell themselves whether they belonged to the latter or to the former. The former were certainly largely represented, and hence a considerable number of the left wing of the party must have disapproved of the secession of June, 1855. Were the secessionists reproached with having taken too bold a stand on the slavery question, or were they only blamed for having immediately withdrawn instead of having remained under protest and repeating the endeavor on the

"So we say, 'the good time' is nearly come. God hasten it! Our people see its approach and hail it with quiet satisfaction. There is no need for noise, the final contest is just ahead, and we could not avoid it if we would, nor would we if we could." De Bow, *Commercial Review*, XIX, pp. 139, 140.

next opportunity to win over the majority to their way of thinking! It soon became apparent that there was no clearness on this point either. The members were found agreed in principle with the secessionists, resolved not to sacrifice the anti-slavery principles to nativist wishes, desirous that the party should act as if it had a very decided anti-slavery programme and yet intended to make sufficient concessions to the south in respect to the platform, in order to render the continuance of the party possible. If this were achieved, political jugglery must have developed into genuine magic.

Brewster of Massachusetts made a motion to strike the 12th section out of the platform. The southern delegates, of course, would not listen to this. But they could not deny that the successes of the party, in the slave states, had been very few, spite of the 12th section, and that the state elections, in the free states, had shown none could be achieved in the north with it. Hence the platform could not remain as it was, unless the party wished to eliminate the question of success entirely from its calculations. But of this no one of course thought, for as Know-Nothingism represented no moral principle, to do so would have been the very purest Quixotism, to which the party would have felt tempted to yield, only if nativism had degenerated into fanaticism, which was by no means the case. But before they came to discuss what was to be put in the place of the 12th section, another and by no means easy question had to be solved. The battles that had been fought over that section and the consequences which its adoption had had, made it impossible silently to repeal it. But what reason could be assigned for striking it out? It could neither be said that there had been a change of conviction, nor could it be granted that all that was desired was to correct a gross tactical error, and yet

there could be no other ground. The difficulty was surmounted with really wonderful skill. The resolution in question read: "Whereas the 12th section of the national platform adopted in June, 1855, was neither proposed by the south nor sanctioned by the north, be it resolved that the aforesaid 12th section be stricken out."<sup>1</sup> In some way, a strange egg had been deposited in the nest of the Know Nothings. No one was to blame for it, and nothing more could be required of them than that they should cast it out. The resolution was adopted by a vote of 100 against 57, the argument in favor of which was a cross between a nursery tale and a riddle.

The 12th section was stricken out, but not recalled nor condemned. The party refused to pass any judgment on it, but it did so and struck it out, because it was not united in sentiment. Hence the resolution did not call for a change of the Know Nothing programme but for its surrender. The place of the absolute ignoring of the slavery question was to be taken by the next best thing, the absolute absence of a programme, that is not the neutrality of the Whigs who had wished to exclude the question entirely from their party programme, but a programme which was in fact no programme at all. In other words, another experiment was to be made with the "agree to disagree" of the Whigs; but this was not admitted; the elimination of the slavery question from the party programme was effected in the garb of a positive confession of faith; that is, to escape the fate of the Whigs who had perished from their intrinsic untruth, their formula was improved by the addition of a second and greater untruth.

The resolution on the 12th concluded thus: "On the subject of the slavery question, we stand upon the principles and provisions of the constitution of the United

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., App., p. 1179

States, yielding nothing more and demanding nothing less." This was, in the form of a positive programme, the absence of a programme on principle, in the sense just referred to, for the two halves of the party, so far as the burning question at issue was concerned, drew directly opposite conclusions from the constitution. But not a single word was needed to prove that this and this only was what the resolution was intended to say, for it was expressed in the most precise terms that the party had to take this stand, and that declaration was made by one of the leaders of the anti-slavery fraction. Sheets of Indiana, asked what would be thought of a man who was struck in the face by another who then cried out: I do not wish this matter agitated any longer. The repeal of the Missouri compromise was the blow, and the 12th section the protest against any further agitation of the matter. Hence the section had to be done away with. He was, however, ready for a compromise and would accept the Washington platform, for if it contained anything at all on the slavery question, its doctrine on the subject was so confused that the public would not be able to discover what it was, before a president was elected.<sup>1</sup> If the 12th section was dropped, the party was sure of the entire north, and if a good man from the south was nominated, it would win as well in the south without that section as it would with it.

Never before had a party been summoned with such revolting straightforwardness to make its existence possible by deceiving itself and the people, with full consciousness, on the question which made the continued duration of the Union more problematical from day to day. But

<sup>1</sup> " he was willing to accept the Washington platform, for, if there was anything in it, it was so covered up with verbiage that a president would be elected before the people would find out what it was all about."

Sheets had not ventured too much. Not only was his characterization of the Washington platform greeted, according to the official report, with "tumultuous applause," but his advice was followed; it was adopted<sup>1</sup> by 108 against 77 votes, not although, but because this characterization was completely proper. The word slavery was not to be found in it at all, but of the serious charges made against the administration the following were among the chief: the reopening of sectional agitation by the repeal of the Missouri compromise, and its vacillating course in the Kansas-Nebraska question. The words were chosen with great care. The policy of the president in the Kansas-Nebraska question was condemned only because it was vacillating, but a wise silence was preserved as to what line it should have followed, and the repeal of the Missouri compromise was lamented not for its own sake, but only because it had been the occasion of the revival of sectional contention. Both statements seemed to say a great deal but in reality said nothing, because they could be interpreted as one wished. As to the constitutional and political attitude of the party towards the territorial question, in which the slavery question came to a point, the platform gave no information. There were not even enough clues given to enable one to form a surmise, so that the question might be so much as discussed. It was, indeed, pretended that the position of the party was defined in the 7th section, but its palpable contents were limited to the nativist demand that, in the territories likewise, only citizens should have political rights. As to the rest, it only said that the citizens had the right to make their laws and constitution in accordance with the provisions of the con-

<sup>1</sup> The Washington platform, so called from the place of its origin, is printed in full in *Congr. Globe*, 1st Sess., 34th Congr., App., pp. 715, 716.

stitution of the United States, to regulate their domestic and social affairs as they thought best, and to ask the admission of the territory into the Union as a state, when it had the population required for the election of a representative. This sounded like popular sovereignty, but did not by any means, need to be popular sovereignty, for the great question in controversy was, whether the latter was in harmony with the provisions of the constitution or whether congress had full discretion in respect to the territories; and if it was popular sovereignty, it was still impossible to divine whether it was to be understood in the sense of the Douglas Democrats or in that of the southern radicals. No more than this could be made out of the new 12th section. It demanded the maintenance and enforcement of all laws until they were repealed or declared null and void by the courts. This certainly implied an obligation to enforce the Fugitive Slave Law. That the territorial laws of Kansas likewise were intended to be included was very probable but not certain, for when, in a national platform laws simply were spoken of, only federal laws were wont to be meant.

The National Council was immediately relieved by the national convention, and hence it had soon to appear, whether this scaffolding constructed of meaningless words was in a condition to bear the mountain-like burthen of the slavery question. The northern delegates for the most part had wished that the nomination should be postponed until June, but the south insisted that it should take place immediately, because this platform, so far as the slavery question was concerned, could come to have a meaning only by the nomination: the candidate did not have to represent the platform, but his political antecedents was to be its key. If Sheets' remark that the slave states could be won by the nomination of a good southerner was



honestly intended, it could only be understood to mean that the north was satisfied with the removal of the exciting red cloth of the 12th section, while the south, from the fact that the interpretation of the hieroglyphics of the platform was transferred to a man from that section, was to be made as secure as it had been before. But all the representatives of the north were not satisfied to agree to such a trade. Before a ballot was taken, Perkins of Connecticut, moved a resolution, by which the convention was to pledge itself to nominate candidates both for the presidency and the vice-presidency in favor of the prohibition of slavery north of 36° 30.' He assigned as the reason of his motion, that, as the south admitted, the party could win only through its northern wing; hence the south had to follow the north which abode irrevocably by its demand, that the repealed Missouri restriction should be restored. The resolution was laid on the table by a vote of 141 against 59, and Perkins announced the exit of the Connecticut delegation. The delegations of Massachusetts, Rhode Island, Ohio and a part of the delegates from Illinois, Iowa and Pennsylvania, in all 40 delegates followed the example thus set, and issued an appeal to the "American party of the Union,"<sup>1</sup> justifying the step they had taken, in concise words, and asking for the calling of a new convention to be held on the 12th of June, in New York. The National Council had, therefore, completely lost its time and pains. The closing of the breach made in June, 1855, with a piece of paper, was not only in vain but it had an effect the very opposite of what was intended, for the repetition of the breach convinced a much wider circle of people that it was, in the very nature of things, absolutely irremediable.

For a time even a double breach had threatened. In

<sup>1</sup> Printed in the *N. Y. Tribune* of Feb. 27, 1856.

consequence of the adoption of the Washington platform, some of the southern delegates had kept away from the convention, and did not return, until it became apparent that the nomination would be such as they desired. They had had no reason to doubt that this would happen, although the representatives of the north could have carried out their will in the question of persons as well as in the question of the platform. Lumpkin of Georgia, said later correctly, in the house of representatives, that they had made no use of their power, because they knew that by so doing they would drive the southern wing of the party into the arms of the Democrats.<sup>1</sup> And, indeed, it was certain from the first that the majority of the north, in this much more material question, would act in accordance with the dictates of the minority of the south. But the latter were much too wise to follow Sheets' advice. Confidently as he might promise them the whole electoral vote of the north, they did not conceal from themselves that with this platform and a slaveholder as a candidate the party could not count with certainty upon a single northern state, but in most of them would scarcely get votes enough to relieve their competition for the great prize of the character of the ridiculous. On the other hand, the south had too frequently had the experience, that its interests were at least as well cared for by northern states devoted to it, as by one of its own sons, not to be able, without question, to get on as well there now with a northern candidate as with a southern, provided no doubt of the reliability of the man existed.

The southern delegates thought they had found the right man in Millard Fillmore, and, indeed, they could not have made a better choice. The part he had played in the struggles of 1850, and especially his position on the

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., p. 1130.

Fugitive Slave Law, afforded the south a sufficient guarantee that the slaveholding interests, in his hands, were in good keeping, and in the north he was the ideal of the narrow-minded but patriotic shop-keeping population whose wealth and social position made them politically powerful, but who were ossifying in their inert love of peace and blind faith in the obsolete forms of the past. Besides, there was some hope that the fact that he had dropped many a powerful word against the encroachments of the slavocracy, would have its influence on those elements of the people who had not yet been too greatly affected by the poison of the Republican movement. The southern nativists and the northern Old Fogies knew exactly what they had in him, and yet the chameleon-like character of the platform could with some skill be transferred to him with a view of enlisting those for him who were still "on the fence." In view of these advantages, it made no difference that he was not a sworn member of the Know Nothing order. But even if these advantages were great enough to permit the south to force this nomination on the unwilling north,<sup>1</sup> it did not consider them great enough to build any hope of victory upon them.

The convention dissolved, fully aware that the defeat of the party was beyond all question. No compromise had been made, but great sacrifices imposed on the party by the centre which threw its weight now on one side and

<sup>1</sup> In the protest of the delegates who had voted for George Law of New York, we read: "He (Fillmore) was forced upon the State of New York by southern votes against the wish of our state delegates, and from those states which no man pretends can carry their vote for an American president." Maryland, Delaware, North Carolina, Missouri, Alabama, Arkansas, Florida and Mississippi voted soundly for Fillmore, and of Virginia's 15 votes he received 14. Hence, his nomination was ircontestably the work of the south, although some southern votes were cast for Garrett Davis of Kentucky, and Samuel Houston

now on the other, thus turning the scales, in order to effect an agreement on a lie intended to cover over as well as possible the breach between the two fractions, while the electoral campaign lasted. But it had not been possible, by this means, to bring back the group severed from the party, during the previous summer, but only to keep the rump of the party, to external appearances, together; and what was to keep the rump of the party together was a platform which took from the one-half what it had previously acquired, but gave nothing to the other, and the candidate of a minority which could exercise no influence on the issue of the electoral campaign. Know-Nothingism was now, so to speak, nothing more than a dummy wearing the old uniform of the party, for people had become fully convinced that the masses could no longer be induced to join in the nativist demands. The presidential campaign had to be fought by the Know Nothings, as by other parties, on the basis of the slavery question, and hence their programme of having no programme, had, during the course of the campaign, to acquire a positive character of some kind. What that character would be was not doubtful, not only because the real meaning of the words of the platform which were capable of every meaning, was given in the person of the candidate, but also because the absence of a programme which lay in the unlimited number of meanings which might be attached to the platform, was only an apparent absence, for its object was to deceive, and in a deception, on this question, as a matter of course, the part of the deceived fell to the north. This does not mean that all the northern representatives who voted for this platform, did so with the intention of circumventing the north and betraying it to the slaveholding interest. Many of those who had not succeeded had certainly only wished to do everything

to help the party to victory, leaving all else to the future, and when it appeared that they had practically labored for the slavocracy, many others probably followed the example of those who had parted from their associates. But this much was certain, that the Know Nothing rump would have to transform itself into a Fillmore party which placed itself openly at the service of the slaveholding interest but which honestly believed that it could preserve the *status quo*, and so far as the northern wing was concerned, was urged thereto chiefly by patriotic solicitude and which sought to justify its policy not so much by constitutional subtleties as by moral pathos and conservative phrases. Leaving the nomination itself out of consideration, the session of the National Council and the national convention had no positive results. But Pike said rightly, that a party which took only a negative position could pursue only negative aims. On the other hand, he entirely mistook the situation, when he made the selfish aims of the New York representatives responsible for the result of the convention. Personal animosities and jealousies played a part in it as in all nominating conventions, but they were not the controlling reason why the favor of the conservative Whigs was courted by the nomination of Fillmore and why an alliance with the Republicans was not formed, although it was known that by such a course the possibility of victory was surrendered. But Pike was unquestionably right when he alleged that the party had no longer any aims of its own and that its only task consisted in being an obstruction.<sup>1</sup> The nativ-

<sup>1</sup> "They propose no contest on any doctrine or principle or measure, but simply a canvass on a man— and a man who is the representative of neither side of any living political issue. Occupying only a negative position he is intended to accomplish only negative results. He is simply pitched into the canvass as an obstruction. . . . The

ist programine had been devoured by the idea which had contributed so much to the formation of the party: under the name of Know-Nothingism dying, the conservative elements had moved in, in the character of boxers, between the conservatives and the slavocracy.

Lumpkin subsequently drew the very opposite conclusion from the facts. He said that the majority of the northern delegates, who were demonstrably anti-slavery fanatics, had allowed the southern minority to nominate Fillmore in order to keep the south divided and thus to throw the election into the house of representatives,<sup>1</sup> in which the Republican candidate would be elected. The assertion was totally unfounded, but notwithstanding this, the electoral campaign might in fact take that course, for while the Know Nothing convention in Philadelphia was in session, it had become certain that the Democrats would find in the Republicans an opponent of such strength that the victory of the Fillmore party might easily change the otherwise sure Democratic electoral majority into a mere plurality.

On the 22nd of February, the birthday of Washington, a convention had been called by the chairmen of the Republican state committees of Maine, Vermont, Massachusetts, New York, Pennsylvania, Ohio, Michigan, Indiana and Wisconsin, to meet at Pittsburg, to perfect the national

action of the Philadelphia convention is a manœuvre of the New York Know Nothing and Silver-Gray politicians to damage the Republican party and injure certain leading individuals therein. The convention has been used simply as an instrument to further certain personal aims of these politicians. They have thought that by taking Mr. Fillmore as the Know Nothing candidate they would have an advantage with the old moderate Whigs everywhere in the north, and would draw off many of them to his support on the ground of his former elevation." Pike, *First Blows of the Civil War* p. 307.

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., Append. p. 1130.



organization of the party and to call a national convention for the nomination of candidates for the presidency and vice-presidency. It would have been more correct if they had said: to organize their congeners in sentiment as a national party, for the party, in the several states, was still in process of formation, and the organizations in them were connected with one another, only in so far as they agreed in their fundamental views. It is, therefore, in a certain sense, true, as is sometimes said, that the Republican party was born in the Pittsburg convention. With it begins the last chapter of the history of the Union of 1776, under the constitution of 1789, for now, the formation anew of national parties on the basis of the slavery question was an accomplished fact and that fact made the preservation of "this" union an impossibility.

Francis P. Blair, Jackson's old confidant, who now lived in Maryland, was chosen chairman of the commission. From Philadelphia, where the nomination of Fillmore had just torn to pieces once more the bands composed of nativist shreds, by which the bursting Union was to be held together, the telegraph carried it Thomas Spooner's message, that one half of the Know Nothings were ready to flock around the Republican banner.<sup>1</sup> The nominating convention was called to meet at Philadelphia, on the 17th of June, the anniversary of the battle of Bunker Hill, and in a lengthy address<sup>2</sup> which had been composed by Henry J. Raymond, editor of the *New York Times*, the confession of faith of the party was laid down. It promises

<sup>1</sup> "The American party no longer unite. Raise the Republican banner. No further extension of slavery. The Americans are with you." *Official Proceedings of the Republican Convention at Pittsburgh*, pp. 8, 9.

<sup>2</sup> *Maverick, Henry J. Raymond and the New York Press*, pp. 365-368.

the firmest adhesion to the Union, and the most conscientious observance of the constitution, and demands a policy on a really national basis, in opposition to the prevailing system which, violating both the letter and the spirit of the constitution, completely demeaned the federal government into a tool of the slaveholding interest. It guards itself absolutely against the imputation of aggressive or revolutionary tendencies. Not only will it make use only of legal means, but it alleges that it pursues only legal ends, for not alone from the principles of morals and of the Christian religion, but from the positive principles of the constitution in harmony with these, does it deduce its right to combat the laws which sacrifice the welfare of the country to the interest of the slavery. From their point of view, the opponents of the Republican party could not but declare it revolutionary, for it broke in principle and, therefore, completely and forever, with the policy of the compromise, which had so long bridged over the abyss of the slavery question, between the two geographical sections of the country; in its own eyes, on the other hand, it was the only really conservative party, for the compromise policy had misused the constitution to the uninterrupted and ever increasing sacrifice of the real interests of the country, and this the Republican party only wanted to check. If it were admitted that the first statement was proved by the summary recapitulation of the whole history of the slavery question, it had to be granted, too, that the programme, in accordance with that declaration, did not, in fact, go beyond resistance to the encroachments of the slavery. It did not, indeed, stop with the demand that all the barriers against the extension of slavery recently broken down, should be erected over again, but it announced that the party would endeavor, by all constitutional means, to protect the entire territorial

domain of the Union from the curse of slavery.<sup>1</sup> Yet even here, from its point of view, no aggression could be recognized, for it saw, in the compromise itself, a violation of the spirit and intentions of the constitution; what had been conceded by it to the south, the south had received, and it could all the less raise an equitable claim to the continuation of the Missouri line, as it had itself broken the compact. The promise to support the oppressed Free-Soil party of Kansas and the desire that it should be admitted into the Union as a free state were only consequences which flowed directly from the first demand.

The eyes of the people which had been directed for some days towards Philadelphia and Pittsburg, now turned back to Washington with interested expectation. That the results of the two conventions could not remain without effect on the deportment of the opposition in congress was self-evident, but it could, by no means, be said definitely, in what manner they would influence the treatment of the Kansas question. It was, indeed, undoubted that, in general, they must needs have a consolidating effect on the opposition, but, spite of this, its prospects in respect to immediately impending contests might be made worse, for the reason, that, in the house of representatives, the decision depended on so few votes, and the knowledge that the question now was of burning their ships behind them, might easily induce some to change their course.

The result of the first deliberations on the Kansas question was not at all encouraging to the friends of freedom. The election investigating committee had, on the 19th of February, asked for power to make extensive inquiries,

<sup>1</sup> "We demand and shall attempt to secure the repeal of all laws which allow the introduction of slavery into territories once consecrated to freedom, and will resist by every constitutional means the existence of slavery in any of the territories of the United States."

with the right to send for persons and papers, that it might be able to judge who was entitled to the seat of the territorial delegate. This request was declared to be in conflict with the law of February 19, 1851,<sup>1</sup> which exactly determined what course was to be pursued in the investigation relating to contested elections. To this it was replied that that law was concerned only with the election of representatives, whereas, in this case, the question was of the election of a territorial delegate. That was certainly correct, but the legislator had evidently not intended to allow the house to employ a much vaster and more costly apparatus for the investigation of the question to whom the seat of a territorial delegate, who had no vote, belonged, than for the investigation of the contested elections of members with full rights. But the administration party not only objected to the mode of procedure proposed by the election investigating committee, but claimed that Reeder could not at all contest Whitfield's seat, since, after he had, as governor, first recognized the legality of the legislature chosen on the 30th of March, 1855, he could not declare the election of a territorial delegate, on the 1st of October of the same year, invalid, simply because it was ordered by that legislature. To this Dunn answered that the right of representation was not Reeder's own right, but a right of his constituents, and could, therefore, be in no wise affected by Reeder's consistency or inconsistency. Stephens met this with the remark that besides Reeder's counter-claim, there was no objection to the validity of Whitfield's election before the house. This fact could not be questioned, and before a court which should not disregard mere questions of form, it might be of great weight, but there was no reason why the house of representatives should allow its hands to be tied by it; to the

<sup>1</sup> Stat at Large, IX, pp. 569-570.

house the other fact should have been of much greater importance, that Reeder's election, on the 9th of October, was a much more emphatic protest against the election of the 1st of October, than any piece of paper could have been. Of incomparably greater weight was the objection, that the seat, even if it were denied to Whitfield could not possibly be given to Reeder, since his election, as every one admitted, had taken place without any legal authorization whatever. To this it was answered that, as a consequence, Reeder indeed might have no legal claim to the seat, but that the house would not, as was shown by the case of Sibley of Minnesota, be thereby bound, but might admit him as a delegate.<sup>1</sup> Yet that was a very subordi-

<sup>1</sup> When congress had authorized a part of the territory of Wisconsin to organize as a state, it refrained from determining anything as to the political status of the rest of the territory. The population believed that, by the severance of the more populous part of the territory erected into a state, they could not have lost the political rights they had hitherto enjoyed, and chose Sibley as delegate to congress. Sibley subsequently thus expressed himself on the resolutions of the house to which this course gave occasion, as follows: "His credentials were referred to the Committee of Elections, and a majority of that committee reported in favor of the application, basing their decision upon the fact, that a territorial organization still continued to exist. When the subject came before the house their recommendation was sustained by a vote of 124 to 63, and the delegate was admitted to his seat. But it appeared, a few days afterwards, that the house only intended to approve so much of the report as declared the delegate entitled to a seat; for when called upon to make appropriation for defraying the expenses of the government of the Territory of Wisconsin, the proposition was voted down by an overwhelming majority. It was manifest therefore, that the house repudiated the declaration of the Committee of Elections, that a territorial government still existed, and had been influenced by other considerations in the admission of a delegate. The broad ground was taken by many members, that wherever there was a sufficient number of American citizens without the limits of the states and organized territories to justify such a step it was in accordance with the sound discretion of congress and the spirit of our institutions, that a delegate should be received on the floor of the

nate question. All these arguments pro and con were, as compared with the question really at issue, a very indifferent and formal piece of law business, unctuously discussed on both sides, but which determined the vote of scarcely a single member.

The contest between the two personages was, as Campbell rightly said, something entirely secondary;<sup>1</sup> it only afforded the formal occasion for obtaining the authentic material for the history of the Kansas troubles, and the opposition asked for that material, in the first place, because the house had to take a legislative position on the unsolved Kansas problem, and further, because that history constituted one of the gravest points in the charges in the final political case against the slavery and its northern accomplices. The motion of the election investigating committee took up the gauntlet thrown down by the message and proclamation of the president to the opponents of the slavery, and called upon the house of representatives to put the complainant and his clients in the prisoner's dock, and to cast itself between the oppressors

house to represent them. This was the principle which actuated many who voted for my admission, and one honorable member from Ohio, now, alas! no more, distinctly stated that such was the governing motive in his case. His words were these as reported in the *Congr Globe*: "When a delegate from any portion of the people presented himself claiming to represent their interests, it was within the discretion of congress whether he should be admitted or not. But he took it that congress had a right to admit a delegate from any portion of the people of Wisconsin, Iowa, California, or New Mexico, without any law." *Congr Globe*, 1st Sess., 34th Congr., App., p. 1116.

<sup>1</sup> The gentleman, Stephens, presents the case as a contest between Governor Reeder and General Whitfield—a personal matter between these parties. I take a different view of it. It involves a question in which the gentleman's constituents, my constituents, and the constituents of every member upon this floor, have a deeper interest than either Governor Reeder or General Whitfield." *Congr Globe*, 1st Sess., 34th Congr., p. 459.



and their victim. Campbell frankly said that the legality of the territorial legislature was called in question,<sup>1</sup> claimed that every law which had its origin in fraud was thereby invalidated,<sup>2</sup> and recalled the fact, that the house, during the last session, almost unanimously allowed itself the right to annul a territorial law on that account.<sup>3</sup> Hence no attempt whatever was made to deceive the administration party as to the end and scope of the motion, for when the assurance was naturally given that there was no wish to judge and condemn before possession had been obtained of authentic material, it was well known that that material would confirm the newspaper reports and other unofficial communications, in all that was essential. The adoption of the resolution was a painful defeat for the Democrats and their confederates in the slavery question, but the opposition had won when the attendance in the house was small, by a majority of only two votes—71 to 79—and the weather was immediately turned in the opposite direction. The resolution was reconsidered and the matter

The very purpose of the resolution is to go back and ascertain by public testimony, such as will satisfy themselves and the country whether the legislation was or was not fraudulent. It

Does the gentleman propose that the committee say that if there be proof of fraud the house will not have the power to disaffirm and annul the laws of the territory of Kansas? . . . I believe the whole assembly is here to say that there is no power in earth that can give us a fraudulent law. The people do.

With a view to preventing the passage of a bill to amend the act of March 3, 1854, the territorial legislature a resolution was adopted, providing that the house of representatives should, on the 1st of June, adjourn without passing any bill, and that the Senate should, on the 1st of June, adjourn without passing any bill.

It was also resolved that the house of representatives should, on the 1st of June, adjourn without passing any bill, and that the Senate should, on the 1st of June, adjourn without passing any bill.

referred back to the committee. This did not by any means imply that the latter would not finally carry its demand although perhaps in a modified form but the administration which had already the advantage gained time. While Pierce could act and insure freedom to the slavocracy to create still further accomplished facts, it could not be seen when the opposition in the house of representatives would advance so far that it might be able to speak without the objection being raised that its declamation was based on the most monstrous exaggerations, misrepresentations and calumnies of fanatical partisans. But in Kansas, the condition of affairs was such that any day might be productive of an event from which Pierce could infer that it was his sacred duty to summon the whole power of the government in order, as Toucey was pleased to express it in the senate, to protect the rights of the territorial population. The state legislature of the Free-Soil party met on the 1st of March, in Topeka, and formally organized; Robinson was sworn in as governor and delivered an inaugural address; the legislature elected Reeder and Lane, United States senators, petitioned congress, in a memorial, to admit Kansas as a state into the Union with the Topeka constitution, and adjourned until the 4th of July. But Butler of South Carolina gave notice in the senate that if the president did not disperse that seditious and treasonable body, people would be found to do it by force, without his assistance.

Toucey and Butler were politicians of sufficient weight to cause full attention to be paid to such utterances when they proceeded from them, but only Douglas could be considered the leader of the senate majority in this question. The net in which Kansas was entangled had been woven by him, and both the Democratic party and the

slavocracy held him, in the first place, responsible that the "good" cause should not lead to a bad end. His task was the exact establishment, the official announcement and the successful execution of the party programme.

On the 12th of March, he laid before the senate the majority report of the territorial committee on the Kansas question.<sup>1</sup> It is not necessary to subject it to a close examination, since it only repeats, in a more elaborate way and with greater skill, the argument of the two messages of the president.<sup>2</sup> The history of the United States has not a second such masterpiece of mendacious, lawyer-like cunning to show. The act of completely distorting the truth without becoming guilty of a direct lie, is practiced in it with a virtuosoship simply unsurpassable. Two or three examples will suffice to show how Douglas accomplished this. He does not say that the Emigrant Aid Society provided the settlers with arms, but after declaring that their propagandist colonization was the only cause of the Kansas troubles, he proves that voluntary settlement and colonization by means of a corporation which had invested five millions of dollars (\$) in houses, lands, commodities, rifles and cannons, powder and lead are very different affairs—a thing which no one could question. The invasions of the Missourians were not denied but only not mentioned, false and exaggerated reports were spoken of and it was claimed that the Missourians had organized for their defence an immigration system similar to that of the Emigrant Aid Company. The right of the Free-Soilers to be opposed to the permitting of slavery is of course

<sup>1</sup> Sen. Rep. 31st Congr. 1st Sess., Vol. I, No. 34.

<sup>2</sup> The report says: "Your committee feel sincere satisfaction in commending the message and proclamation of the president of the United States, in which we have the gratifying assurance that the supremacy of the laws will be maintained." *Ib.*, p. 40.

not questioned, for the report was a defence of the organic law with its principle of popular sovereignty; but the Emigrant Aid Company is charged with wishing to "abolitionize" the country against the wishes of the people and in violation of the rights guaranteed to it by the constitution, as if the Free-Soilers were not a part of the "people," in whom the organic law recognized the right of self-determination, but intruders who revolting against the laws and constitution overthrew the decision made before their coming and wished to abolish slavery. What cannot be asserted is insinuated in such a manner as to make it appear a demonstrated fact; what cannot be denied is suppressed and the impression created, by placing other facts in a false light and distorting them, that it has been denied. What is to be established is smuggled in disguise into the proof, as the decisive argument, and the desired conclusion reached by making it the premise, and the whole is a confused mass of tangled and knotted sophisms which one must submit, sentence for sentence, to an exhaustive, logical, historical and constitutional criticism, if he would completely destroy the net-work of deception.

Douglas, therefore, did not, any more than Pierce, take one step backward. Whatever reasons he might assign for it, he stood by the wrong doers, in the name of liberty, of the law and of the constitution. And he had to do so, if he wished to avoid responsibility for the fact that a harvest of terror was reaped from seeds of peace. If he did not do so, unconditionally,<sup>1</sup> he would have passed sentence of political death upon himself. In the Kansas-

<sup>1</sup> In a later report of the 30th of June, he had the ingenuous shamelessness to write: "Inasmuch as the passage of the Kansas-Nebraska act and the repeal of the Missouri compromise have produced (''order and peace'') in Nebraska and could have no influence in creating the present difficulties in Kansas, etc." Sen. Rep. 34th Congr., 1st Sess., Vol. II., No. 128, p. 3.

Nebraska bill he had crossed the line which made every attempt at turning back impossible, and it was just as impossible for him to stand still; he no longer had any choice but to go forward.

He had to go forward, but he also wished to go forward. He was just as free from political sentimentality as from constitutional doctrinarianism. Whoever desires the end must also desire the means—such was his moral code. In itself, it was a matter of perfect indifference to him whether the south or the north got Kansas; but only in case it fell to the former could the Democratic party remain at the helm, only in case the Democratic party remained at the helm could Stephen A. Douglas become president of the United States, and only in case the federal authorities sided with the Border Ruffians with a decision which disregarded all consequences could Kansas fall to the share of the south. This reasoning was entirely free from sophistry. The calculation could not be simpler or clearer, and in it the form and substance of the report were given. Douglas did not need to wait for the authentic material which the election investigating committee of the house of representatives wished to procure, for it never entered his mind to make what could be called a report, his task was only to prove a statement the proof of which the interest of the Democratic party and his own personal interest required. But the other question, what was now to be done, was by no means clear and simple.

If the south was before everything else to be satisfied, the north should not be too much irritated if the Democratic party and Stephen A. Douglas should find their account. But if things were allowed to take their course, the anti-slavery epidemic might easily thin the Democratic ranks considerably, whether the Free Soil party of the territory compelled Pierce to carry out his threats or

whether order and the supremacy of the law were restored in accordance with Butler's receipt, that is by new but more energetic Wakarusa wars. Hence, Douglas fully agreed with Pierce that an effort should be made to put an end to the sorry trade as soon as possible. That this could not happen in a manner agreeable to the Republicans was self-evident. But as the liberal opposition in the house of representatives had only so small a majority and had so little cohesion, a proposition might be made which on superficial examination seemed so far equitable that some of the more conservative friends of freedom were either really deceived or for the sake of peace pretended to believe that all just demands were sufficiently met to enable them to agree to the proposition. Of the president and the senate, he was sure.

The bill which he introduced in the senate on the 17th of March, in the name of the territorial committee, authorized Kansas, when it had the population necessary to the choice of a delegate, to give itself a state constitution in the usual manner, in order to be admitted into the Union. If the bill had treated of Nebraska or New Mexico, it would, therefore, have been not only harmless, but would really have given no occasion for objection. But as it concerned Kansas, it decided not only the legality of the territorial legislature and the validity of the laws passed by it in favor of the pro-slavery party, but delivered over to it, so far as the last decisive struggle was involved, the Free-Soil party bound hand and foot. It was provided that the legislature should empower the governor to take the census, by which it was to be determined whether the requisite population figure had been reached, and that the legislature should, by a law, order the election of delegates to a constitutional convention. Hence "for the present," slavery in the territory continued legally to exist,



and the population remained subject to all the barbarous laws passed by the legislature, the examination of which Douglas's report had expressly declined, since congress did not have to concern itself as to how the territory thought best to regulate its domestic affairs. But this "for the present" lasted at least nine months, since there was no prospect of the meeting of the legislature, till January, 1857; but it might be extended years, because it was left entirely to the legislature to say when it would have the census taken and order the election of delegates. If the circumstances did not seem favorable to it, it could quietly wait and the president, in accordance with his promise, if it were necessary, see to the maintenance of the *status quo*, with the state militia and the whole federal army. It did not need to become guilty of the least violation of law to insure itself a complete victory, for it might allow itself as much time as it wished, to wear out the Free-Soil party and to have a sufficient number of slaveholders and of those who wished to become slaveholders, settle in the territory. But Douglas did not expect and certainly did not wish that the legislature would take it so leisurely, for it might be difficult enough to get through the nine months without its coming to a catastrophe in the territory. The legislature only needed to let the election of delegates take place in the winter when immigration from the distant free states had not yet set in, but when an immigration for a time and on a large scale could be started from neighboring Missouri, that the electoral campaign might be ventured on without fear. Douglas was so convinced that he had sufficiently insured the success of the pro-slavery party that he asked the senate for the concession to the Free-Soil party to prohibit, in the election of delegates, all the "tests" connected with the exercise of the right of suffrage by the territorial laws. How this was to be

reconciled with the fact that he left the "tests" in the case of elections to the legislature untouched, and refused congress the right to concern itself how the territory thought well to regulate its affairs, it was difficult to see; but the hope that this concession would produce a certain impression on the more conservative friends of freedom, was, perhaps, not wholly unfounded. On the other hand, he thereby placed a weapon in the hands of the Republicans which was able to render them good service in proving, as Sumner said, that the bill was the remedy of injustice and civil war.<sup>1</sup>

This was indeed a correct characterization of the bill. But the substitute immediately moved by Seward, in accordance with which Kansas was at once to be admitted as a state, under the Topeka constitution, was not a remedy of justice and peace, for not only had the Topeka constitution been drafted and adopted, without any legal authorization, but it was notoriously and confessedly not the work of the territorial legislature, but only of a party. It was certain that neither the pro-slavery party in the territory, nor the majority in the senate, nor the president would ever agree to this demand; and so long as the Kansas-Nebraska bill had not ceased to be the law of the land, no one had a right to ask them to agree to it. Vastly important as it was to frustrate the attempt to win Kansas, which had been "forever" guaranteed to freedom, over to slavery, by force and fraud, it was of still greater importance that the Union should not lose the character of a constitutional country, still more than it had lost it. Politically and constitutionally, the desire would have been fully justified to restore the Missouri compromise or to prohibit slavery in the territory, in any other form. That the repeal of the Missouri compromise and the sub-

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., App., p. 539.

stitution for it of the principle of Popular Sovereignty were a shameful breach of faith and a deceitful perversion of the fundamental ideas of American nationality, and that by the falsification of that mendacious principle and by open violence, the rights of the Free-Soil party had been trampled under foot, did not now justify the disfranchisement of the other half of the population, in opposition to the laws of the land and the underlying principles of American nationality. But all this would have happened by the immediate admission of Kansas as a state under the Topeka constitution, for the latter contained not the one paragraph only which prohibited slavery, but was all that the word constitution implies. Only on absolutely compulsory grounds of the highest political consideration should congress with its consent and sanction, have allowed the fundamental law of a state to be foisted upon it, by a part of the population, acting entirely outside the law and in the directest contradiction to the will of the other half. It was only the shortest and simplest manner to drag Kansas away from the slavery, and, as compared with that, all else weighed little in the eyes of the Republicans, just as their opponents, in their desire to win it, had no regard for anything which stood in their path.

The revolutionary spirit which, for a long time, had filled the slavery, in the prosecution of its specific interests, now took possession of its opponents, and this fact was the strongest proof that the catastrophe was at hand. The Kansas question had taken such a course that it could not be seen how, even with the most upright will and the most earnest efforts of both parties, a return could honorably be made to the ground of the Kansas-Nebraska bill, and yet the fatality had to be averted, although both parties refused to listen to anything about

it. Douglas's bill was not an effort to avert it, and was not intended to be, but put the seal to the wrong doings of the Missourians, and Seward's demand was not simply a parrying blow, but a counter-blow.

Seward and his associates, in the senate, could, indeed, talk, protest and challenge, but could carry nothing through. It depended on the small and as yet so incoherent majority in the house of representatives, whether the slavocracy would once more win the victory in federal legislation, in the form of a compact or without such drapery. But the house, on the 19th of March, resolved, by 101 against 93 votes, to send a committee to be appointed by the speaker and furnished with extensive powers to Kansas, to investigate not only the elections but all the questions relating to the troubles in the territory.<sup>1</sup> In truth, whoever could still harbor the illusion that a solution of the Kansas question would be found during this session must have been not only very sanguine, but very blind, for the session had now lasted more than three months, and not even an attempt at mediation had been made in any quarter. Storm and struggle were the signs of the times.

<sup>1</sup> See Dunn's resolutions, *Congr. Globe*, 1st Sess., 34th Congr., pp. 690, 691.

## CHAPTER VI.

## "LAW AND ORDER"

While the investigating committee of the house of representatives—Howard of Michigan, Sherman of Ohio and Oliver of Missouri—began their inquiries on the spot, the speeches delivered, in the senate, on the Kansas bill of the territorial committee (Bill No. 172) filled volumes. A new element was introduced into the discussion when, on the 7th of April, Cass presented the petition of the "self-styled" legislature, for the admission of Kansas as a state. He refused to answer Seward's question, what legislature he was speaking of, as useless. His motion to refer the petition to the territorial committee was agreed to without objection, but the further motion to order it printed met with violent opposition. Bayard was content to declare the printing of it not proper because it pretended to emanate from "senators and representatives" of a "state" which did not exist. For the same reason, Butler considered it an insult and vigorously resented it. Douglas, on the other hand, thought the printing of it a matter of no importance, because all suspicion of an approval of the revolutionary procedure of the Free-Soil party of Kansas was excluded.

The discussion, to which Foote put an end by calling the order of the day, had lasted only a few minutes, and had been carried on only by Democrats. Notwithstanding this, further debate would have been, in a certain sense, superfluous. Instead of looking at the extra-legal

steps of the Free-Soil party as a serious warning addressed to their political conscience and their political wisdom. the Democrats saw in them only a wished-for pretext to close their ears to all the demands of right and justice, and to pursue their policy hitherto more regardless of consequences than ever; and on the other hand, the Republicans found in them a moral justification not only for siding with right and justice, but for identifying themselves with the Free-Soil party of the territory, spite of the fact that its course was entirely extra-legal. If a solution of the Kansas-question was wished, still each side believed that only a decision in its own favor was such a solution. It was not unimaginable that there might not finally be some yielding and an attempt made to effect a trade similar to those made in former compromises. But of this there could as yet be no question, as the struggle was only beginning. If an effort was now to be made to effect an understanding, its starting point would have to be the honest intention to reconcile law and right with one another, and such an intention had, as a condition precedent, the complete refusal to influence the decision of the great question in controversy, in any way. Both were impossible and hence the slightest idea of such an understanding in this sense could not occur to either side. But if no understanding was desired, the defence of the two opposed views could only add fuel to the flames. Spite of endless repetitions and spite of the dead weight of constitutional hair-splitting, the speeches were really no fruitless wrangle, but they tightened the knot which it was sought to loosen. Not only in congress itself and among the whole people did passion grow more violent, but the two parties in the territory were spurred on to persevere and to make even greater endeavors, by the energy with which their cause was defended in congress.



Congress had to be the judge and yet every single member of it was himself a party. But when the judges become abettors in a suit, because, from calculation or conviction, they are at once advocates and parties, it is folly to demand justice and placability from the parties. The speeches which were delivered in the Capitol at Washington had, naturally, together with the messages and proclamation, to be transformed into deeds; and perhaps, only by their being so transformed could any further progress be made. But what direction that progress would be forced into could not be seen.

Governor Shannon seemed to believe that the worst was passed. In a report of the 11th of April to Marcy, he repelled the allegation that the Missourians were bent on new assaults on the territory as a fable, and asserted that the proclamation of the president had exercised a very quieting influence.<sup>1</sup> If this were correct, the people whose tools the Border Ruffians were, must have become convinced that they might rest on their laurels, as Pierce would see to the completion of their work. But they were very far from doing so. Not only did they have no intention idly to fold their arms, but they did not conceal the fact that, spite of the support of the president, they felt by no means sure of victory.

On the 25th of March, the Emigration Society of Lafayette County, Missouri, had issued an appeal to the people of the southern states, in which it frankly confessed that Missouri was no longer able to carry on the struggle alone. The two parties were now about equal in number, and unless the south, without delay, organized an immigration on a large scale, it would be beaten in the October elections and the territory be thus lost forever.<sup>2</sup>

<sup>1</sup> Message and Documents, 1856-57. I. p. 67.

<sup>2</sup> "The western counties of Missouri have for the last two years

If the Emigration Society had measured the full bearing of this admission, it would scarcely have made it. There was, indeed, in Kansas, a numerous pro-slavery party; the number of slaves, however, was exceedingly small. But a slave state without slaves, is a non-visible monstrosity. Not with Border Ruffians, but only with slaves could the south conquer Kansas, and the slaveholders did not come so long as the Free-Soil party, in the territory and in the free states, did not acknowledge itself conquered and did not give up the fight. As a speculation, settling in Kansas was too venturesome to attract many, and no one considered himself obliged to stake his whole economic existence for the general good; what always happens in such cases happened here; that which was at once the concern of all and of no one in particular, remained unper-

been heavily taxed, both in money and time, in fighting the battles of the south. Lafayette County alone has expended more than \$100,000 in money, and as much more in time. . . . Missouri, we feel confident, has done her duty, and will still be found ready and willing to do all she can, fairly and honorably, for the maintenance of the integrity of the south. But the time has come when she can no longer stand up, singlehanded, the lone champion of the south, against the myrmidons of the entire north. . . . How, then, shall these impending evils be avoided? The answer is obvious. Settle the territory with emigrants from the south. The population of the territory at this time is about equal, as many pro-slavery settlers as abolitionists. . . . If, then, the south is influenced by a spirit of respect and independence, let societies be formed to assist emigrants. Those who cannot emigrate can contribute money to assist those who can. . . . The great struggle will come off at the next election, in October, 1855, and unless the south can at that time maintain her ground all will be lost. We repeat it, the crisis has arrived. The time has come for action—bold, determined action. Words will no longer do any good; we must have men in Kansas, and that by tens of thousands. A few will not answer. . . . We tell you now and tell you frankly, that unless you come quickly, and come by thousands, we are gone. The elections once lost are lost forever."

formed.<sup>1</sup> The collecting of money was attended with so little success,<sup>2</sup> that enlistment even among thieves and adventurers of all kinds who had nothing to lose but life, and who were ready at any moment to stake it in a quarrel, was not large. Men of this class could have been procured in any desired number, and their enlistment would have been secured to a greater extent, if the educated and wealthy slaveholders had not rightly concluded that it would be of more injury than service to the cause of the south. Such recruits could be employed with excellent results in disturbances on election days and in similar tasks. But that business was well taken care of by the Border Ruffians; at most, their cohorts needed only a little reinforcement. As settlers, they were of as little use as, or less than, Border Ruffians, for either they were birds from the same nest, that is too familiar with the revolver, the bowie-knife and the whiskey bottle to hold their own side by side with the immigrants from the north in the use of the plough and the hoe, or they would

<sup>1</sup> The *St. Louis Evening News* of March 21, 1856, wrote: "Since the opening of the river, full 500 slaves arrived from the Ohio river on their way to Kansas. The J. H. Lucas took up nearly 100, the *Star of the West* 100, the *Chambers* 50 to 75, and almost every boat that has started up the Missouri river, has taken a larger or smaller number. The slaves are almost in every case taken in the cabin, while poor white families going to the same place take passage below, on deck. This last allegation is presumably true, but shows that the figures are greatly exaggerated. Field slaves certainly did not travel as cabin passengers, and home slaves were not numbered by hundreds. In another letter of the 16th of June, 1856, to the *National Era*, we read: "If the south felt that this territory was not already gained to freedom, why have they not sent their slaves here? But a very few are in the territory. Not three can be found in all central or western Kansas."

<sup>2</sup> In the legislature of Georgia, Cook of Chatooga introduced a bill providing for an appropriation of \$50,000 to encourage emigration to Kansas. After a long debate, the bill was rejected by a vote of 65 to 43.

come, through close contact with the latter, to recognize that they were fighting like serfs of the slavocracy against their own interests. If they did not become so uncivilized as finally to ruin the party which they served, in the eyes of every decent man in the north, by their lawlessness, it must have been apparent that they would grow gradually lukewarm, and, in the end, turn "traitors."<sup>1</sup>

Part of what the Emigration Society of Lafayette County asked of the south could not be done, and part of it should not have been wished to be done, but the society was not guilty of seeing the situation in too somber colors, without reason. In the peaceful struggle with the north, the south could not endure, and hence it had to endeavor to force a quick decision. In its efforts to obtain such a decision, it might become of great importance that the repeated petitions and warnings of the Missourians, that they should not be left alone in the breach were not entirely in vain. A certain "colonel" Buford of Alabama had sold his plantation for \$50,000, and in the beginning of April headed, at his own expense, 300 men who were to labor in Kansas on the temple of slavery as the children of Israel had once worked on the temple of Jehovah, ready at the first bugle blast to drop the trowel and draw the sword. But labor in the sweat of one's brow was not at all to the taste of these representatives of the chivalric spirit of which the south boasted as one of the noblest fruits of its peculiar institution. The reception they met

<sup>1</sup> *The Kansas Free State*—copied in the *Independent* of April 17, 1856, writes: "The fact cannot be contradicted that a very large majority of the emigrants from the south when left to the free exercise of their own judgment, always vote against slavery." This was saying too much, but that the assertion was not baseless was proved by southern evidence, although in congress as we have seen, it was represented as so evident that every settler from the slave states also belonged to the pro slavery party.

with in Missouri pleased them so well that they at first lingered in the border counties and took their ease, until a task worthy of them presented itself. Their opportunity to give the world an example of the spirit of chivalry which had grown up in the new world on the soil of slavery, did not have to be waited for long.

Sheriff Jones was again called upon to engage in his favorite business, executing warrants for the arrest of Free-Soilers and especially of the hated citizens of Lawrence. The Free-Soilers believed that it was intended to provoke them once more to resistance, or to the forcible liberation of a prisoner, and hence they were all the more on their guard, to give the federal authorities no pretext for interference. But it soon became manifest that the calm which had prevailed during the past months by no means justified the sanguine description which Shannon had drawn, in his report of the 11th of April, to the secretary of state. Late in the evening of the 53rd of April, the inhabitants of Lawrence were startled by the dreadful intelligence that Jones had been murderously shot in his tent. It was not quite as bad as reported, but it was bad enough. The assailant had fired three times: the first ball missed, the second grazed the sheriff's foot; at the third he fell not mortally but dangerously wounded. Next morning, the citizens held a meeting, in which they gave expression to their indignation at the act, and Robinson offered a reward for the discovery and arrest of the assailant. On the 27th of April, colonel Sumner, under his own name, addressed a communication to the inhabitants of Lawrence, strongly exhorting them to do all in their power to discover the "cowardly murderer" because the peace of the country might depend upon their finding him, since the opposite party would not fail to hold the whole place responsible for the crime. Robinson added

to the assurance he gave of the universal horror excited by the act, the declaration, that the inhabitants of Lawrence looked upon the assailant as their enemy, since they had always condemned every revolt against the law and the officers of the federal government, and had, at the time, treated Jones as a federal official.<sup>1</sup> This was all true, but what Sumner had prophesied, nevertheless, happened. The act was the crime of an individual, but the motive for it was undeniably to be looked for in political animosity and that was sufficient, in the eyes of the pro-slavery party, to lay the moral authorship of it at the feet of the citizens of Lawrence and of the whole Free-Soil party. Passion was altogether too high, for men to judge equitably and justly. And there was no wish to judge equitably or justly, because the episode could be turned to such good account. That this might be done to the utmost, the entire press of the pro-slavery party immediately said that Jones was dead, and the most extravagant eulogy was heaped upon his memory. Feeling was thus created in the most effectual manner, but that was all that could be done now, for even the philosophy of law of Border Ruffianism could base no charge on the alleged moral guilt of the citizens of Lawrence, into which a court of law would inquire. But as the pro-slavery party were resolved to hunt down their prey, another pretext was soon found to allow the impatient pack of hounds to begin the chase.

On the 17th of April, the investigating committee had come to Lawrence. The pro-slavery party recollected their own deeds well enough to have no doubt how the world-historic case between them and the Free-Soil party would be judged by civilized mankind. That would have been

<sup>1</sup> The two letters are printed in full in Philipp's, *The Conquest of Kansas*, pp. 257, 258.



a matter of the utmost indifference to them if it might not become of importance to the further course and for the issue of the struggle. To prevent this, they devised a combined manœuvre of the utmost baseness intended to parry the threatening blow or at least to weaken it greatly, and by a counter-blow of overwhelming weight, so to demoralize their opponents that they became incapable of further resistance. The plan received an almost diabolical character from the fact that the chief part in it was assigned to the judicial power. This raises a suspicion that the judge who lent himself to the execution of the piece of villainy had devised it, but that cannot be proved.

On the 5th of May, Judge Leconte instructed the grand jury of Douglas County to the effect that it should find bills for high treason against all persons who had offered any resistance to the territorial laws, because such persons had revolted against the authority of the Union, since the legislature had been chosen by virtue of the organic law passed by congress; further those were guilty of "constructive high treason" who had not actually resisted the territorial laws, but who had made combinations to that effect or who had aided and abetted such combinations.<sup>1</sup> From the fact that the territorial legislature was chosen by virtue of federal law, to infer the constitutional

<sup>1</sup> This territory was organized by an act of congress, and so far its authority is from the United States. It has a legislature elected in pursuance of that organic act. This legislature, being an instrument of congress, by which it governs the territory, has passed laws, these laws, therefore, are of United States authority and making, and all that resist these laws resist the power and authority of the United States, and are therefore guilty of high treason.

Now, gentlemen, if you find that any persons have resisted these laws, then must you, under your oaths, find bills against such persons for high treason. If you find that no such resistance has been made, but that combinations have been formed for the purpose of resisting them, and individuals of influence and notoriety have been aiding

equality of territorial and federal laws was only a sublime absurdity; the doctrine of "constructive high treason" on the other hand, was a conscious fabrication and both parts of the instruction might make the giving of it, by its possible consequences, morally if not legally, a capital crime.

The instruction was logically so impalpable a medley of words, that it is difficult to say, whether Lecompté wished to speak of high treason against Kansas or against the United States; but, in either case, his instruction had no legal foundation whatever. Crittenden was of the former opinion, and rightly thought that high treason against a territory was a constitutional absurdity; but of high treason against the United States, there was no question here, because the constitution had very exactly defined the crime, and in that definition there was nothing about resistance to federal laws, to say nothing of resistance to territorial laws. To exclude every doubt, it was expressly provided that "only" the crimes enumerated in Art III., Sect. 3 of the constitution, "levying war against the United States, adhering to their enemies, giving them aid and comfort," should constitute treason, and whoever had the slightest knowledge of the history of the constitution, was aware that this very significant "only" was intended to exclude from the constitutional law of the

and abetting in such combinations, then must you still find bills for constructive treason." *The National Intelligencer*, June 5, 1856.

"You might as well talk about treason against a county in a state, as treason against Kansas. Treason is a crime which can be committed, according to our definition of it, only against the sovereignty of the country. The territory of Kansas has no sovereignty. It is a government which, in all its branches, is subordinate. The sovereignty is in the people of the United States. There may be treason against the United States, but there can be none against the territory of Kansas; nor can Kansas legislate what shall be treason against the United States." *Congr. Globe*, 2d Sess., 31st Congr., p. 57.

United States the "constructive" high treason which played so great and so melancholy a part, in the history of England. Lecompte, therefore, declared from the bench that it was the sworn duty of the grand jury to persecute his political opponents for crimes which either could not be committed or which had no legal existence. If the doctrine contained in that instruction became law, in Kansas, every man who continued to refuse obedience to the territorial laws because of their invalidity risked his neck; and the object of the constitution and the laws would have been, under the forms of legal procedure, to allow the entire Free-Soil party to be treated as outlaws, in respect to the great political question at issue. This doctrine delivered to the grand jury fell upon fruitful soil. It recommended the court to abate the two Free-Soil papers published in Lawrence, the *Herald of Freedom* and the *Kansas Free State* which preached revolt against the territorial laws, and to take steps by which the so-called "Free-State" Hotel might be removed because it was provided with loop-holes for guns and cannons, and was therefore evidently built as the chief citadel of resistance to the laws.<sup>1</sup> The future showed that this recommendation was not intended merely as an attempt at intimidation, but it could not yet be discovered when and how it was to be carried out. The grand jury was of course very clear that what was intended was to throw a rope around the neck of the Free Soil party, but how the threads which it was made to spin were to be twisted together, it certainly did not know. It was a blind tool, and surely did not suspect that the citation of Reeder to give his testimony, which they now were induced to resolve upon, was directly connected with the desire expressed by

<sup>1</sup> The technical cause assigned for the demand was that the two papers and the hotel were nuisances.

it. This citation was the key to the whole intrigue or rather to the whole conspiracy.

Reeder was with the investigation committee in Tecumseh, when assistant marshal Fain, on the 7th of May, served him with the summons. The ex-governor called attention to the fact that the summons was not drawn up in legal form, but did not wish to attach any weight to that, and based his refusal to obey it on the further fact, that he had no information of any importance to give the grand jury, while the public interest demanded that he should remain with the investigating committee, to promote its labors. This was certainly correct, but it was also one of the chief reasons why his presence was demanded in Leecompton. Precisely because, by his accurate local knowledge, he was of the most material service to the Republican majority of the committee, had he to be removed. But besides this, there was a desire to be avenged on the "traitor" and that in the most sensitive manner, by forging from his disobedience the weapons with which the annihilating blow against his party was to be dealt.

Fain appeared again next day, but this time with a warrant for Reeder's arrest, on the ground of contempt of court. Reeder asked for the protection of the committee, and Howard and Sherman expressed their personal opinion to the effect, that the court was not authorized to issue the order, but declined all official interference. Reeder notwithstanding refused to obey on the ground of his alleged immunity and because he claimed he had reason to believe his personal safety would be endangered in Leecompton. This was what was wished. The loud expressions of approval with which some of the Free-Soilers present had accompanied Reeder's emphatic declaration sealed the fate of Lawrence.

The leaders of the Free-Soil party had been convinced for some time that a more violent storm was approaching than any which had hitherto swept over the unfortunate country. Robinson had, therefore, resolved to take a journey to the east, there to get assurance from his congeners in opinion that the Free-Soil party would not be left in the lurch, in case larger swarms were thrown by the south into the territory. The unsuccessful attempt, however, to arrest Reeder made him consider it very questionable, whether he should carry out his intentions precisely at this moment. But he yielded to the pressure of his friends, partly because he had still another object in undertaking the journey. The pro slavery party made so little effort to conceal the rage with which they followed the labors of the investigating committee, that Howard and Sherman feared an attempt, if not against their persons, at least against their papers. These papers might become of sufficient importance in the further course of the struggle and especially in the presidential campaign to require a criminal coup-de-main. Hence it was determined that the treasure which the scandalous record constituted in the hands of the Republicans, should be quietly conveyed to a place of safety. A copy of it was secretly made that Mrs. Robinson who accompanied her husband might smuggle it into the east. With good reason, it was not considered safe in Robinson's own hands, for it now became apparent that he had not been deceived by his evil suspicions. On the 12th of May, he was arrested at Lexington, Missouri, on the pretext that he wished to escape a charge made against him, by flight. Certain "gentlemen" had the considerate attention to compel him to go with them secretly from the boat to the city, because otherwise the drunken crowd would have attacked him. Mrs. Robinson continued her journey with the well com-

cealed, valuable documents,<sup>1</sup> but the "governor" of the Free-Soil party was detained as a prisoner, although the story of the charge against him was a pure invention, and even if it had been true, it would not have given a right to any crowd of Missourians to play the part of Kansas bailiffs. Reader who no longer felt safe in Lawrence,<sup>2</sup> happily effected his escape disguised as a boatman, after he had concealed himself for some time in a hotel. The Free-Soil party had been deprived of its leader, and its opponents had obtained the pretext which they needed to carry out their plan.

On the 14th of May, the day before the arrest of Robinson in Lexington, marshal Donaldson had issued a proclamation to the people of Kansas which notified Lawrence that its hour had come. The proclamation stated that a "large number of citizens" of Lawrence had "evidently" resisted the execution of the warrant of arrest by the assistant marshal, and it, therefore, called upon the law-abiding citizens to come, as soon as possible, in sufficient number, to Leecompton, in order to execute the warrants of arrest in the hands of the marshal, since it was to be expected, that a large number of armed men would resist him. The first allegation had reference to Fain's unsuccessful attempt to arrest Reader. In an official communication dated only four days later, the marshal convicted himself of so monstrous an exaggeration in respect to that occurrence

<sup>1</sup> "In St. Louis she handed them to C. K. Watson, who delivered them to speaker Banks on Monday, where they are beyond the reach of Border Ruffians or of President Pierce." *The Independent*, May 22, 1856.

<sup>2</sup> Phillips writes: "I have little doubt but he was urged to do so (to leave Lawrence) by the members of the committee (of the house of representatives). They regarded him as the stumbling block, and while this was merely an apology for attack, the members of the commission wished nothing to occur that would put a stop to their important investigation." *The Conquest of Kansas*, p. 275.



that it must be simply described as a lie. He at the same time furnished proof himself that the proclamation had not been issued, because Lawrence had resisted the execution of the laws, but because, under the most frivolous pretext, the place was charged with having done so since it was resolved to fumigate the viper nest of the Free-Soil party. In this communication of the 15th of May, directed to a committee of the citizens of Lawrence, the "great number" shrinks to "one or two citizens of Lawrence," and their resistance to the arrest of Reeder was reduced to this, that they "loudly applauded" his words. With an involuntary touch of the comical, Donaldson adds to this confession the declaration that Fain abstained from making the arrest because he was convinced that the attempt might cost him and his few attendants their lives.

The citizens of Lawrence feared that Donaldson and his *posse comitatus* would have stronger nerves. As early as the 11th of May, they had held a meeting and appointed a committee to apply to Shannon for protection against the guerilla bands which had been raised in Kansas as well as in Missouri with hostile intent against Lawrence. The governor answered them, that only the legal posse of the United States marshal and of the sheriff of Douglas County were moving towards the place, and that he would not protect them against the legitimate consequences of their illegal acts, so long as they had a military organization to resist the laws of the territory.

The legal posse which had come together in Leecompton were the same gang who had waged the Wakarusa war, mixed up with Buford's men and other Catalinarian individuals who had come over from the cotton states; Buford himself and one "colonel" Titus from South Carolina were among the trusted advisers of the governor. The citizens of Lawrence, therefore, expected the worst. In a new

meeting, on the 13th of May, they declared the charges made against them in the marshal's proclamation to be entirely unfounded, said that they were ready to obey any order of arrest, even offered to act as a posse for the marshal, but closed with the declaration that they would defend themselves to the death against a mob.<sup>1</sup> As they rightly feared that the committee of safety would not keep this promise, they chose a new committee which came up to the wishes and expectations of the more determined still less. The resolutions were sent to Donaldson with a letter in which he was requested to let the citizens of Lawrence know what was really asked of them; the assurance was again given that assistance would be willingly given him in the execution of all legal orders of arrest. Donaldson's answer was the letter already mentioned of the 15th of May, which the United States marshal did not blush to spice with coarse insult. To the question whether the gentlemen's eyes had yet been opened to the fact that there were still laws in Kansas which must be obeyed, he added the declaration that, after all that had happened, no faith could be attached to their assurances. If the bands in Lawrence had done nothing contrary to law, they had no reason to fear him; but he would execute his orders of arrest, when and how it seemed good to him.

There was soon no lack of illustration to the remark of the marshal, that only the guilty needed to fear his posse. Whoever could not give satisfactory information concerning his position on the slavery question, received the most palpable proof that the Border Ruffians, as the *Richmond Enquirer* had recently said, were the pioneers of a high

<sup>1</sup> "But we are ready to resist, if need be, unto death, the ravages and desolation of an invading mob." The documents for which no other source is cited, are printed in full in the book by Phillips so frequently cited.

and honorable civilization.<sup>1</sup> Because Lawrnce, under a false pretext, was outlawed, every Free-Soiler who fell into the hands of the knights of law and order was obliged to have all that he possessed looked upon as so much rightful booty, and to be thankful that he escaped with such a fine and a fright. In a communication of the 17th of May, the citizens of Lawrence called Donaldson's attention to all this lawlessness, and asked him whether he recognized these people as belonging to his posse, but no

<sup>1</sup> "The Border Ruffian, the farmer of the far south and west, is the noblest type of mankind. In his person is revived all the chivalry and generosity of the knights of the middle ages. He is equally noble, but far more useful. He is the pioneer of a high and honorable civilization. He is planting a master piece—men like the Greeks and Romans—on a new soil." *The Richmond Enquirer*, April 15, 1856. Dr. J. V. C. Smith, ex-mayor of Boston, during whose administration the Anthony Burns case arose. Herefore, probably, no "abolitionist"—drew a somewhat less flattering description of them. "Those I saw at Westport, whose camp was in the woods only a few rods out of the territory, were young men, rough, coarse, sneering, swaggering, dare-devil looking rascals as ever swung upon a gallows. They had not a redeeming trait of character. On the contrary, they were a horribly profane, whisky-drinking collection of ruthless desperadoes, whose depredations upon the peaceable, industrious occupants of the little log huts which stand like admiration points in every direction over the far distant waving prairies, demand the earnest and immediate interposition of the government."

"The marauders were mounted on horses and mules, armed to the teeth with pistols, long knives and carbines. They rob travelers surprise the humble residents of prairie cabins, whom they strip of their valuables and in repeated instances, murder the owner. They drive off cattle the property most in request, and steal horses. They oblige a man to dismount, and take his horse, and should he remonstrate or resist, blow his brains out without apology."

"Occasionally the villains make a mistake and kill one of their own number. Vehicles are stopped, pocket-books overhauled, and they order persons to quit the territory with as much nonchalance as though they were the proprietors of the soil, and the reign of despotism had fairly commenced. These mounted robbers assume all the remorseless characteristics of Italian brigands." *Congr. Globe*, 1st Sess., 24th Congr., App., p. 856.

answer was vouchsafed them. On the same day, they turned once more to Shannon and again assured him that they did not want to oppose any resistance to the officials and offered to surrender their arms to Colonel Sumner, if he would come with a number of troops sufficient for the protection of the place.<sup>1</sup> This request and offer were likewise abruptly refused.<sup>2</sup> Even the murder of two Free-Soilers—Jones and Stewart—did not change the governor's views and was not able to shake the marshal's resolve: the Border Ruffians from Missouri and Buford's men from Alabama and South Carolina, paid from the treasury of the United States for the service,<sup>3</sup> had to teach Lawrence that, in Kansas, "law and order" must prevail.

Donaldson had now collected from 500 to 700 men, and that number was considered sufficient, not to make the arrest, but to inflict the penalty decreed against Lawrence.<sup>4</sup>

<sup>1</sup> Message and Documents, 1856-57, I, p. 80.

<sup>2</sup> "He (Shannon) was implored to summon to his aid the force of Col. Sumner for the protection of the property of the citizens, but peremptorily refused. It was represented to him that the marshal's posse had resolved on perpetrating unlawful outrages on Lawrence, and he said the people of Lawrence must take such consequences as should ensue, that he could protect them with the United States troops if he chose, but that he should not do so. When apprehensions were expressed to him that these outrages would finally madden the people to the point of resistance, and precipitate all the horrors of civil war, he turned angrily away and left the room with the expression, 'War then it is, by God!'" *Ib.*, p. 81.

<sup>3</sup> "Major Buford marched over four hundred men (according to others only 300) from South Carolina and Alabama; and as soon as they reach Kansas they become a part of the United States marshal's posse, and are placed upon the pay-roll." *Congr. Globe*, 1st Sess., 34th Cong., App., p. 1099.

<sup>4</sup> Lieutenant McIntosh informs Colonel Sumner on the 21st of May: "There are probably from five to seven hundred armed men on the pro-slavery side organized into companies, most of which marched last evening with the United States marshal of the territory for Lawrence. For the last two or three days these men have been

On the 20th of May, the march on Lawrence from the different camps began. Among the leaders, were Stringfellow and Atchison, ex-president of the United States senate. The latter led, from Raw River, the Platte County rifles, with two cannon. At daybreak, on the 21st of May, the van occupied a height called Mount Oread which commanded the town. The place of a white flag which had first been raised was soon taken by a red one with the inscription "Southern Rights" and not till later did the starry banner find room by the side of the latter. And this is as it should have been: the struggle was for the "rights" of the slavery as against which there could be no right, and it was carried on by the volunteers of the slavery; the federal government for the sake of the appearance of law only appointed the official leaders, furnished the arms and paid the costs, that is it did its duty as shield bearer to the slavery. Assistant marshal Fain who had the evening before, executed two warrants, without meeting any resistance, rode with a few men into the place, made a requisition of several citizens as a posse, was readily obeyed, executed some more warrants, and then returned to his comrades who were now in full force ready for the principal action. A part of the committee of safety made a last attempt to avert the blow. They sent Donaldson written notice that they demanded the protection of the government, as Lawrence did not wish to resist either federal or territorial laws. But even this

stationed between Lawrence and Leecompton, stopping and disarming all free-state men, making some prisoners and in many cases pressing the horses of free-state settlers into service. The last rumors from Lawrence were, that a great many persons had left, and that they did not intend to make any resistance. Even if they do not, I think probably that some portion of the town will suffer for instance the Free State House, and the printing office." Senate Doc., 34th Cong., 2d Sess., Vol. III, No. 2, p. 20

sacrifice of the position in point of principle of the Free-Soil party, to which they had not been at all authorized by the citizens, proved entirely useless. Sheriff Jones who was so far restored that he could sit upon his horse, rode with a somewhat larger division into the place and demanded the surrender of all the arms in it; if this were not done, within five minutes, he threatened to bombard the town.<sup>1</sup> The cannon which had been brought into the city during the Wikanasa war and which were now buried were brought from their hiding places and handed over, but the muskets, the spokesmen of the citizens declared were private property, and Jones would have to fetch them himself if he wished to have them. In the meantime, the chief body of the posse, fired by the violent speeches of Atchison and others, began to march, and entered the place, after they had first satisfied themselves that the reports that it had been entirely undermined were absurd inventions. Under the pretext that they looked upon the recommendation of the grand jury, in respect to the suppression of the two Free-Soil papers and the removal of the Free State Hotel as a judicial order, the rabble broke the presses, rendered the type useless or threw it into the river, and tore the books to pieces. They then proceeded to the hotel. The proprietors were given not quite two hours for the removal of their effects. In the meantime, the cannon were mounted, and when the time was over, the bombardment began. But the cannoneers were too awkward or too drunk and the walls too strong to allow much to be accomplished in this way. An effort was made to blow up the building, but it too was unsuccessful. Fire was therefore set to it, and the object finally attained. The *Herald of Freedom* building did not catch fire readily, but from its roof floated a blood-red flag with a

<sup>1</sup> Message and Documents, 1856-57, 1, pp. 82, 83.



single star in the middle, and the inscription around it, "South Carolina."<sup>1</sup> Fire and blood were the harvest which grew from the seed scattered by the statesmen of South Carolina, but the time was destined yet to come when the word of Hale would be fulfilled, that the fighting would not be all on one side. In Lawrence, the myrmidons of the slavery now played the game alone. Nothing stood in their way, not even their much boasted chivalry, for Jones had had the consideration or foresight, at the beginning, to order the removal of all women and children. The sacrificial feast of law and order could, therefore, be closed with a dance such as might be expected of such priests. The dissension of those who had some kind of conscience or feeling of honor left, was entirely in vain. The band broke into the stores and into the houses of the citizens, took whatever they liked, even the clothes of the women and children, as we are informed by the report of the investigating committee,<sup>2</sup> and destroyed what they did not want or could not carry away with them. The houses of two citizens Topliff and Perry, were sacked while they were obliged to assist the marshal in making arrests. The reflection of the flames which devoured Robinson's house, wrote on the nightly heavens how the government of the freest people on earth, in the service of the slavery, had avenged the outraged law and restored the altars of order. Slaveholders in the presidential chair had engaged in slavery propagandism with the sword against foreign powers, but it was reserved for a president from the free north, by his agents, to promote propagandism for the "peculiar" institution of the south,

<sup>1</sup> Report of the Lecompton Union, printed in Phillips, pp 324-329.

<sup>2</sup> Rep. of Comm., House of Reps., 34th Congr., 1st Sess., Vol II., No 200, p 65.

with powder and lead and the torch, in the name of law and order, within the limits of the Union itself, and in a region which, by a solemn compact, had been pledged "forever" to freedom. Judge Lecompte might wonder that Donaldson's posse had conducted themselves with so much moderation;<sup>1</sup> but the free north would have fallen not only into political but also moral emasculation, if it did not see in the "sacking of Lawrence" a graver crime than in the bombardment of Greytown.<sup>2</sup>

The lesson taught Lawrence had, indeed, its effect, but it was very different from what the pro-slavery party had intended and expected. Colonel Sumner who had in vain urged the governor to abandon his partisan inactivity, thought, on the 28th of May, that there was danger of a guerilla warfare.<sup>3</sup> Not only was this correct, but the

<sup>1</sup> In a letter to E. A. Hannegan of Indiana he says: that there was no judicial order for the destruction of the printing offices and the hotel and he, therefore, laments the deed, for "the maintenance of law is the palladium of our safety." But he adds: "I may say, nevertheless, that it is a matter of wonder that, under provocations so manifold as existed when Lawrence was entered by this posse, no more irregularities were committed. Nay, it is a matter of congratulation that there was enough of fixed purpose to avoid excesses to resist the temptation to commit them *ad libitum*." *The Independent*, Aug. 14, 1856.

<sup>2</sup> In the report already mentioned of the *Lecompton Union*, we read: "If every man of them had been killed, every house burned, and total and entire extermination had been the motto of the 'law and order' party, who would be to blame?" Impartial decision answers, 'these men have brought the calamity upon their own heads.'

<sup>3</sup> "We have done what we have done, and would not have anything undone that was done, and shall do more if let alone, so let our doings go forth for the inspection and criticism of the nation. As to the 'law and order' party of Kansas, they have but one opinion, but one mind,—to stand in defense of their laws and their rights at all hazards."

<sup>4</sup> "From present appearances, it looks very much like running into a guerilla warfare. If the matter had been taken in hand at an earlier

guerilla warfare war was already raging. After the work in Lawrence a part of the *posse* of the marshal returned home, that is chiefly to Missouri, but a large number carried on the business on their own responsibility and account. The Border Ruffians and Buford's men roamed over the country in larger and smaller bands.<sup>1</sup> Terror rode with them, and wherever the hoofs of their horses left a mark, the tear-bedewed earth shot up the thorns and thistles of angry vengeance. The useful was always combined with the meritorious. From the "fanatics" who were given their choice between the speedy abandonment of the territory and the halter, to the new immigrant from the north who was compelled to travel back the same road he had come, all Free-Soilers who could be fallen upon in superior numbers, were, with the utmost impartiality, not only called upon to surrender their arms but were deprived of all other property which seemed specially desirable.<sup>2</sup> The

day, as I earnestly advised the governor, the whole disturbance would have been suppressed without bloodshed." (By Sumner to Col. Cooper May 26, 1856. Sen. Doc., 34th Congr., 2d Sess. Vol. III, No. 5 p. 41)

<sup>1</sup> The *St. Louis News* complains of Buford's men: "But the men could not be induced to do it to settle. They preferred roving over the country in organized bands, depending on their too hospitable friends in Kansas and Missouri for the means of support. These friends are tired of them, and no one would desire their departure. They have done nothing for themselves, nothing for their commander, and nothing for the cause of the south in Kansas. The *Independent*, Aug. 14, 1856.

Lieutenant McIntosh testifies that they did not live entirely on the hospitality of their friends: "It is a notorious fact that some of the band who came originally into this territory with Col. Buford have committed gross outrages and I can say with certainty that there are still small parties of his men now in the territory acting in the most lawless manner." Messages and Documents 1856-57, I, p. 72.

<sup>2</sup> In the report of the investigating committee we read: "While holding their session at Westport three of your committee saw several parties of armed men, confessedly citizens of Missouri, march into the

governor and the federal dragoons were very active in the discovery and confiscation of arms, although the possession and bearing of arms is a right of every American, guaranteed by the constitution. Shannon was, no doubt, guided in this by the idea that the fire would die out of itself for want of fuel, if the Free-Soil party were entirely disarmed. But the calculation was a very erroneous one, since the political troubles became more and more a pretext and a cloak to the knights of law and order for continuing unpunished their waylaying life, which of course does not mean that their devoted enthusiasm for the sacred cause was not entirely genuine. More than one atrocious murder instigated only by the political opinions of the victim proved this in a manner which made doubt impossible.<sup>1</sup>

territory on forays against its citizens . . . The wagons of emigrants were stopped in the highways, searched without claim of legal process and in some instances all their property taken from them. In Leavenworth city, leading citizens were arrested at noon day in presence of members of your committee, by an armed force, without any claim of authority, except that derived from a self-constituted committee of vigilance, many of whom were legislative and executive officers. Some were released on promising to leave the territory, and others, after being detained for a time, were formally notified to leave, under the severest penalties.

"The only offence charged against them, was their political opinions, and no one was thus arrested for alleged crime of any grade."

Lieutenant McIntosh reports to D. Woodson, acting governor, on the 10th of June, 1856: "Early on the morning of the 10th instant a party of thirty or forty men came into this town, (Palmira) with the avowed intention of burning it . . . A short time after my arrival in their camp, another company came up (from Platte county, Missouri I believe) to whom I offered the same alternative (to lay down their arms or leave the territory). Last evening a company of fifty or sixty men came up from Westport, and are now encamped within three miles from Palmira . . . If this Missouri movement could be stopped, I would have some hopes of more quiet times." *Messages and Documents, 1856-57*, pp. 72-73.

This was not to be wondered at as the press incessantly preached

But it was not the blood of Free-Soilers only that reddened the soil of Kansas. That day of terror, the 21st of May, had caused the vessel to overflow. Although the Lawrence safety committee did not consider it wise, or did not dare, to meet Donaldson's rabble with arms in their hands, as they had done in the Wakarusa war, there were many Free-Soilers who thought themselves justified, before God and man, from that hour, in opposing force by force. They too made requisitions, in the stores of pro-slavery people, of powder and lead, blankets, boots and provisions, "pressed" horses, and were not a little proud of all those things which the civilized world, under orderly conditions, calls robbery and punishes with the penitenti-

wholesale murder in the wildest districts. A sample given in Phillips, p. 391 may find a place here, because it at the same time, gives information of the new mode of warfare of the Missourians: not to allow any settlers whatever from the free states into the territory. "The steamer *Sultan* having on board contraband articles, was recently stopped at Leavenworth city, and lightened of forty-four rifles, and a large quantity of pistols and bowie knives, taken from a crowd of cowardly Yankees, shipped out here from Massachusetts. The boat was permitted to go up as far as Weston, where a guard was placed over the prisoners, and none of them permitted to land. They were shipped back from Weston on the same boat, without even being insured by the shippers. We do not approve fully of sending these criminals back to the east to be reshipped to Kansas—if not through Missouri, through Iowa and Nebraska. We think they should meet a traitor's death: and the world could not censure us if we, in self protection, have to resort to such ultra measures. We are of the opinion, if the citizens of Leavenworth city or Weston would hang one or two boat loads of abolitionists, it would do more towards establishing peace in Kansas than all the speeches that have been delivered in congress during the present session. Let the experiment be tried."

When public opinion allowed such things it is not to be wondered at that the committee, p. 64 had to report. Your committee, in their examinations have found that in no case of crime or homicide mentioned in this report, or in the testimony, has any indictment been found against the guilty party except in the homicide of Clark by McCreas, McCreas being a free state man."

ary and the house of correction. Prisoners were taken, hostile camps and places were surprised at night, and formal skirmishes engaged in, in which, however, the ammunition consumed was out of all proportion to the number of dead and wounded. Although conflict with the federal troops was avoided because they did not wish to revolt against recognized legal authority but only to help themselves, refractoriness, on the part of the Free-Soilers, became greater and extended further every day. Farms remained uncultivated or were tilled by women and girls, that the families might have bread for the winter, because their husbands and brothers had, as was universally said, gone to the war. The Free Soilers would, indeed, almost without exception, have gladly exchanged the rifle for the plow, if calm and security were guaranteed them for the future. Many a young blood felt the charm which lay in the excitement of this petty war, and in the bosom of many a man whose hair was turning gray, passion was so thoroughly aroused that they would not, now that it had gone so far, hear anything of a cowardly armistice. On their side, too, the horrible began to ally itself to the great and the high. The terrible deed at Potawattomie, on the 25th of May, is involved in darkness to the present day, but this much is almost beyond a doubt, that the pro-slavery people were not met in an open, manly struggle, but were, at least in part, condemned and executed by "Judge Lynch."<sup>1</sup>

The charge of the pro-slavery party that the blood thus

<sup>1</sup> This even Redpath unreservedly admits: "It is false, also, that the ruffians were cruelly killed. They were tried, made confession, allowed time to pray, and then slain in a second." *The Public Life of Capt John Brown*, p 119. The reasons given for the act were, beating a Free Soiler, ordering the Browns to leave the territory if they cared for their lives, insulting a daughter and daughter-in-law of John Brown.



shed stained the hands of John Brown and his sons has never been proved, and may be looked on all the more certainly as unfounded, since he denied it, and afterwards wrung from honest but mortal enemies of his the confession, that he would have considered his life too dearly purchased with a lie. And yet the enormous accusation cannot be called a pure calumny, which had its origin in hatred of the dreaded leader of the Free Soil volunteers. Its foundation was the well-grounded conviction, that the robust old man, with features chiseled as if in granite, would recoil from no act which he believed he could justify before his conscience,<sup>1</sup> and that the eyes which, when the conversation turned on certain subjects, lighted up so strongly under his bushy eyebrows, bore witness to a spirit to which the much abused word "fanatic" might rightly be applied. Puritanic blood flowed in his veins, and under the influence of the steady, earnest study of the Bible, and the struggles of life, the plain man of the people became, in his whole thought and feeling, a Puritan of the most artless uprightness, unbending obstinacy and consuming energy of conviction. Four of his sons had emigrated to Kansas, and, in the summer of 1855, he himself left his quiet farm in the Adirondacks and followed them. Whether he wished to settle in the territory or went there with the intention to serve the Free Soil party in its struggles against slavery, to which even as a boy he is said to have sworn eternal enmity, by act and counsel, is a debated question. But this much is certain, that, from the first, his motto was Cromwell's saying: "Trust in God and keep your powder dry!" He was terribly in

<sup>1</sup> According to Redpath, he unreservedly approved the act: "But remember," he added, "I do not say this to exculpate myself for although I took no hand in it, I would have advised it had I known the circumstances; and I endorsed it as it was."

earnest with the one and the other. The doings of the avengers of law and order had so deeply wounded his heart, that his voice forsook him and his eyes filled with tears, when he spoke of them before the legislature of Massachusetts. A band of Missourians, under a certain Pate, had taken two of his sons who were quietly attending to their own business, prisoner, and delivered them to a troop of federal dragoons, who drove the two men, against whom no judicial information had been lodged and no judicial charge made, laden with chains, before their horses over the burning prairie; and before the sun had set, John Brown the younger was a maniac. But the stern old man allowed no feeling of personal vengeance to enter his heart, for *Revenge is mine, saith the Lord, and I do good to them that persecute you.* So far as he and his were concerned, he said with the simplicity of heart and as unqualifiedly as the Christian martyrs of the first century: *What God does is well done.* But the cause whose champion God had called him to be, he served in the spirit of Abraham who at the command of God turned his sword even against his own son.

No one yet suspected what this meant, or even that such things were possible, in the second half of the nineteenth century; but John Brown of Ossawatimie was the most dreaded partisan, not only because he was the most daring and the most skillful, but also because prayers were said as regularly and as fervently in the camp of the man to whom the bloody deed of Potawatimie was ascribed, as ever in the cave of an anchorite. These were phenomena which could not be gotten over by constitutional sophistries and lying quibbles, unless people had lost the faculty of understanding the power of moral instincts in the human breast, either altogether or, at least in respect to this question. Several southerners who had come to help win the

territory for the south, shook its dust from their feet, severing themselves with contempt and disgust from the men who had risen up there as southern cavaliers, and unable to refuse a certain respect to the "abolitionists" whom they most heartily hated, because they held out in a struggle carried on with such weapons. Shannon was again seized with the fear which had shaken him in the Wakarusa war, but more violently than he had been then. If he had not called up the spirits, he had at least refused to banish them while he might have done so; and now they derided him, after they had awakened other spirits still, which he was just as powerless to control. The haunted ground began to burn under his feet. He now called on Colonel Sumner and his dragoons not only to reduce the Free-Soilers to quiet but, above all, to disarm Buford's disrupted band and the marauding crowds of Border Ruffians, against whom he himself bore witness.<sup>1</sup>

Sumner's efforts were not fruitless,<sup>2</sup> but the fire which

<sup>1</sup> On the 10th of June, he went to Westport, Missouri, to be heard by the investigating committee, and on the 12th of June he reported to Marcy about his journey: "In passing down everything seemed quiet until I came within about three miles of the territorial line. At this point I found a regular camp of armed men, numbering over one hundred. When I reached Westport, I found the streets crowded with troops that had just arrived from below. On inquiry, I was informed that several had passed over the line into the territory a few days previous, and that those then in the town were destined for Douglas county, in this territory." *Message and Documents 1856* 57 f. p. 68. It is worthy of mention that one of the largest invading bodies—Colonel Sumner estimates it at about 250 men—was led by the delegate to congress Whitfield and the militia general, Coe. Col. Sumner to Col. Cooper, June 8, 1856. *Sen. Doc., 34th Congr., 3d Sess., Vol. III, No. 5, p. 44.*

<sup>2</sup> In the same report of Shannon, we read: "These illegal military organizations are very generally broken up and dispersed throughout the territory, and if all outside pressure is kept away, they will not be likely to reorganize in the presence of the United States troops." *Ib.*, p. 70.

had been fanned to such a heat could not be extinguished in this way. Wolves allowed to shelter themselves in the sheep-fold for a long time do not turn into shepherd dogs the moment it occurs to the unfaithful keeper to intimate to them that they have been altogether too savage. The whole history of the Kansas troubles and the message and proclamation of the president were a rope by which the Border Ruffians held Pierce and his creatures much more firmly than the latter could hold the Border Ruffians by the dragoons. Pierce, the south and the whole Democratic party would not and could not undo what had been done, and they were still resolved to make every effort in their power to win the stake in the nefarious game they were playing. Of what use could it be to make an excursion against the Border Ruffians in their role of way-layers and foot-pads, when they could not be dispensed with in their role of patriots and guardians of the law? Sumner had answered this question indirectly, when he expressed his conviction to Marcy that certain people were using the Kansas question industriously to bring about civil war.<sup>1</sup> No matter whom he had in mind when he said this, and no matter how far his suspicion was well founded, Kansas was henceforth called "bloody" Kansas, and that word, once it had been introduced into the history of the irrepressible conflict between freedom and slavery, could not be cast out again, until it was settled, in one way or another.

Another chapter in the history of that conflict had been already written in blood.

On the 19th and 20th of May, Sumner had made a

<sup>1</sup> "I have no hesitation in believing that there are men in our midst, acting in concert with others at a distance, who desire to bring on a civil war." *Ib.*, p. 69

speech, in the senate, on the crime against Kansas.<sup>1</sup> It was one of those speeches which could have been delivered only in the English Parliament or the American Congress, because only Englishmen and Americans have the requisite practice and patience in listening. He spoke for hours not brilliantly improvising, but repeating, sentence for sentence, what he had stored in his mind or even written for the printer, in the silence of his study, after carefully weighing every word. And yet the senate and the full galleries followed his utterances with unflagging attention, nay with intense expectation, although no new facts or arguments could be produced in the case, which day after day, filled the columns of all the papers, and in the different stages of which, so many speeches had been made, in congress, that it was not long before they were numbered not by dozens but by hundreds. His hearers were certainly in part, held by the oratorical art to which Sumner always devoted much and sometimes too much time and labor. The classical quotations which, for the most part, were not understood, and the historical allusions which concealed a wisdom just as obscure to many, gave the speech an imposing dash of learning, and the verses from English poets, profusely scattered through it, excited the fancy and relieved the tiresomeness of the numerous selections from well-known documents. But it was not this that held the eyes of all fixed on the lips of the speaker and caused the light that glowed in his eyes to be reflected back from theirs. Without being able clearly to account for it to themselves, for a moment, friends and enemies alike felt that the speech was a historical act, because an eminent character had put the full moral weight of his thought and feeling into its words, and not as an

<sup>1</sup> Congr. Globe, 1st Sess., 24th Congr., Append., pp. 520-544.

individual but as the representative of millions who stood behind him. Fraud he said was the only correct designation for the mixture of meanness and wickedness which bore the name of the Kansas-Nebraska bill, a fraud from whatever side it was looked at, whichever of its objects and whichever of its effects was contemplated. And what was planned as a fraud was executed as a crime; not to lose his booty, the overtaken sneak-thief becomes a murderer. But the fraud grown into a crime was the legitimate off-spring of the harlot, slavery.

It was difficult for the slave barons and their northern courtiers to find words strong enough to give expression to their disgust and indignation at the fact, that the wretched fanatic had dared, in the senate of the United States and within the hearing of ladies, to pronounce the foulest of foul words. He had dared to do it, and not in the excitement of the moment, but after mature consideration. In holy anger, he tore the last shreds from the fraud, the crime and from the body of its mother, the harlot, slavery, in order to exhibit them to the whole world in all the nakedness which made them so unspeakably horrible in his own eyes. He hated the strumpet who had made the land of liberty and equality her foot-stool, and that hatred was surpassed only by the contempt with which he looked down upon the demagogues from the northern states, who had pressed the brazen sceptre into her hand. That he nailed the constitution to the pilory, when he branded as a harlot the institution which was not only tolerated by it, but provided by it with strong armor and granted great privileges; that the honest fulfillment of the constitutional compact, if the epithet were deserved, was an impossibility, because it would then be a grievous moral wrong; that the south would not, could not and should not remain in the Union, if the



institution which was the formative principle of its entire life were looked upon by the north in this light; that that institution, considering its organic connection with really Democratic commonwealths joined together into a national state, could not, in accordance with its inmost nature, be satisfied with what was accorded it in the constitution, because continual encroachment was the condition precedent of the preservation of its existence: all this Sumner recognized just as little as did the rest of the Republican politicians. With them, but more intensely than they, he felt only this one thing, that the slavery, in alliance with northern demagogues and doughfaces, had caught the north by the throat, sapped the fundamental principles of American nationality and tended by its systematic corruption to transform the greatest democratic republic of history into the greatest lie of all time. The last hope of the human race struggling for liberty, as the Americans were so fond of calling their country, would become an object of scorn, pity and contempt, unless the hand was shaken off, under whose iron grasp in Kansas the blood had already begun to burst forth, and that could not be done by gallantry and adjuration. A blow in the face of the oppressors which might sell them was the means he wished to try. He would have them hear the whole truth undiluted by conventionalities of any kind, in the fittest, that is, in the most forcible, terms. He wished to show them their own and their mistress's picture as it floated before the eyes of his own intellect; the more they trembled with rage at the sight of the hideous faces, the better. The whole speech is permeated by the thought, that it was his sacred duty, as a patriot and a man, to bring them to justice without mercy. Hence he not only turned against the slavery and the Democratic party which were, indeed, frightful realities but had no person-

ality, but he let his scourge fall with all his might on backs of flesh and blood. Butler, as the representative of South Carolina, and Douglas, he selected as the chief among the guilty. South Carolina which had always stood at the head of the slavocracy, because the slavocratic instinct had always been most strongly and consistently developed in it, was reminded of the shameful imbecility into which it had fallen, even during the revolutionary period, on account of slavery. Its pompous senator who on account of his own personal rank as well as because he was the representative of the palmetto state, believed himself made of clay different from that of ordinary mortals, was obliged to hear himself told with disdainful contempt, that everything became distorted in his hands and he could not open his mouth without blundering. He was assigned the role of the Don Quixote of slavery, and Douglas was associated with him as Sancho Panza. It was a wonderfully striking comparison, but precisely on that account his disdainful language cut deeper into the flesh than the strongest appeal to all that is holy in the eyes of God and man.

The Sowards and Hales, Fessendens and Trumbulls, Wilsons and Wades did not handle the majority with silk gloves, when they spoke of slavery, but it never before had the feeling that it was subjected to morally running the gauntlet before the eyes of the whole world. This became immediately apparent in the short debate which directly followed the speech, on the 20th of May. Cass only sought to show that the history of Michigan afforded no precedent for the course of the free-state party of Kansas, but introduced his remarks with the declaration that the senate had never before been obliged to listen to so un-American and un-patriotic a speech. Douglas followed with a real flood of invective of the filthiest description.

Referring to Sumner's earlier declarations respecting his position on the Fugitive Slave Law, he called him an avowed criminal,<sup>1</sup> said he deserved to be spat in the face, because he dared to exchange the civilities of social life with the authors of the Kansas-Nebraska bill whom he had denounced in this manner, and inquired whether Sumner's object was to provoke somebody to tread on him like a dog in the streets that he might excite pity by his deserved chastisement. Lastly, Mason complained that in the senate, they had to do with people with whom all contact outside it would be a shame and a disgrace, and called Sumner a cunning artificer or forger who could make no use of the truth but to circulate falsehood.

Sumner must of course have expected that blows of his kind would be followed by counter-blows. Some of his friends, however, feared more serious consequences and advised him to be on his guard. He totally disregarded their warnings and came near paying for it with his life.

The senate had adjourned early on the 22nd of May on account of the death of a representative. Sumner had remained in the senate chamber and was seated at his desk busily engaged in writing. He did not notice that a man came up to it. The brief announcement that he must be punished for aspersing the character of South Carolina and slandering Senator Butler caused him to look up from his papers, and at the same moment he was struck a frightful blow on the head with a gutta-percha cane with a diameter of an inch at the heavier end. Sumner sprang to his feet, but confined between his chair and the desk screwed fast to the floor, he was unable to throw himself on his assailant who with undiminished force and the rapidity of a trained fighter rained down blows on the

<sup>1</sup> "Did mortal man ever witness such an act by an avowed criminal?" Congr. Globe, 1st Sess., 34th Congr., App., p. 545.

face and skull of the defenseless man. By a powerful effort, Sumner who was over six feet in height and of great physical strength, wrenched the desk from the floor, out, already half-stunned, he was not able to seize his assailant who dealt him fresh blows as he retreated, and the wounded senator finally fell senseless and covered with blood. Preston S. Brooks one of the representatives of South Carolina was the glorious victor. He had not only brilliantly avenged his state and his uncle who was not in Washington at the time of Sumner's speech and had not yet returned, but he had furnished another proof that the slaveryocracy was resolved to defend law and order with the utmost energy against the abolitionist fanatics—the slaveryocracy and not Preston S. Brooks alone, and hence the case was cognizable not by a criminal court solely but by history. The court of the Capital of the Union which was being corroded by the poison of slavery inflicted a penalty on Brooks which was an insult to all justice, but in the record of the world-historic case against slavery in the United States, there is scarcely another page which so thoroughly and palpably justifies Sumner's characterization of the peculiar institution.

Brooks was not one of those fellows who when the occasion offered—of course generally in debates on the slavery question—made scenes in the house of representatives which are wont to be witnessed only where prize fighters and professional bullies meet. In his speech defending himself, on the 14th of July, he challenged comparison of his behavior as a gentleman and member of the house, with any other member.<sup>1</sup> And, indeed, he had hitherto passed universally for a genuine representative of south-

<sup>1</sup> "I challenge comparison with any member, aged or young, pious or not as to the propriety of my demeanor as a gentleman and a member." *Ib.*, p. 862

ern "chivalry" and on one point not unimportant in itself, and in view of the act of the 22nd of May, a very important one, he had demonstrated that he had a fine and deep feeling of what honor demanded of the true gentleman, as it was commonly found in cultured slave barons. On the 15th of March, 1854, in the debate on the Kansas-Nebraska bill, he had spoken severely against the cheap courage shown by insulting a man opposed to duelling, and had said that, in such a case, he would rather be the man insulted than the insulter.<sup>1</sup> And now he had, not in the heat of passion but after cool calculation and careful preparation which showed more of caution than of courage fallen upon a defenceless man and had beaten him almost to death, because, in the exercise of his office and under the broad shield of the constitution, he had said things which did not please the southern cavalier. To make sure that from being the endgeler he should not become the endgeled, he took Edmundson of Virginia into his confidence. He had waited with the latter twice before the Capitol to fall upon the unsuspecting home-bound senator. As his victim by chance did not happen to pass that way, he had gone in search of him in the senate chamber, and taken advantage of the fortunate chance that he found him in a situation which prevented his using even the weapons with which nature had provided him.

<sup>1</sup> "I have lived long enough to learn, that to do justice to the opinions and even prejudices of others, is the surest way to secure a just consideration of my own."

"Nor, sir, does it jump with my humor or my appreciation of honor to assail those who, in obedience to a local sentiment, are averse to a resort but too common in a warmer latitude. It is a cheap display of chivalry to insult when no risk is incurred, and, for my own part, I would prefer the condition of him who bears the wound than of him by whom it is, under such circumstances, needlessly inflicted. Congr. Globe, 1st Sess., 33d Congr., Appendix, p. 371.

Brooks' faithful shield-bearer, Edmundson, happened by chance to be still in an adjoining room, but a second contestant, Keitt of South Carolina covered his rear, wildly brandishing a cane and shouting to those present that they would have to deal with him if they tried to mix in the affair. These noble southern cavaliers and members of the house of representatives had, therefore, combined to make an assault on a senator, as brutal, base and cowardly as can well be imagined. Indeed its baseness and cowardice almost surpassed its brutality. Brooks declared before the house of representatives that, in view of Sumner's greater physical strength, he had preferred the heavy gutta-percha cane to a horsewhip, and claimed credit for the preference, since he would—whether with a revolver or bowie knife he does not say—have killed Sumner, if he, Brooks, had got the worst of it.<sup>1</sup>

Even while the assault was being made, it was plain that not Edmundson and Keitt alone would unreservedly approve the brave and high-minded Brooks. Some of those present who made no effort to fall into the arms of the murderer, might have made wise remarks like those

<sup>1</sup> "I went to work very deliberately, as I am charged—and this is admitted—and speculated somewhat as to whether I should employ a horsewhip or a cowhide, but knowing that the senator was my superior in strength, it occurred to me that he might wrest it from my hand, and then—for I never attempt anything I do not perform—I might have been compelled to do that which I would have regretted the balance of my natural life."

The question why he had not challenged Sumner, he answered: "I knew that the senator would not accept a message, and having formed the unalterable determination to punish him, I believed that the offense of 'sending a hostile message,' superadded to the indictment for assault and battery, would subject me to legal penalties more severe than would be imposed for a simple assault and battery." Congr. Globe, 1st Sess., 34th Congr., Appen., p. 332. The man who so prudently weighed everything had certainly not forgotten that a challenge would have been a warning.



of Douglas who was sitting in conversation with other members of congress, in an adjoining room. When he heard of the proceeding, he had as he said, sprung up, but seated himself again, because considering his attitude towards Sumner, his interposition might be misconstrued. Not until the affair was over did he enter the senate chamber to satisfy his curiosity. Slidell on the other hand turned around and went out by another door when his bleeding colleague was carried towards him, for he did not want to be suspected of feeling any sympathy for Sumner.<sup>1</sup> Iverson of Georgia had according to his own saying not moved from his place, but had, from first to last, looked on "pretty deliberately," and his colleague, Toombs, did not try to hide that he not only did not think of leaping to Sumner's assistance, but had immediately expressed his full approval of the assault.<sup>2</sup> Hence one might well be in suspense as to what position the entire body of the representatives of the south would take, in both houses of congress, in the official treatment of the affair.

On the following day, Seward in the senate, moved the appointment of a committee of five members to investigate the affair. This motion was adopted without opposition, but no representation was granted Sumner's political and personal friends in the committee.<sup>3</sup> This showed plainly enough that, with the majority of the senate, there was no such thing as moral indignation against the assailant and sympathy for his victim. On the 25th of May,

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., pp. 1304, 1305.

<sup>2</sup> *Ibid.* p. 1305.

<sup>3</sup> Pike wrote: "The committee (Seward's resolution) proposed to raise was voted by the senate, and its members taken wholly from the 'Democratic' side of the Chamber. Its composition was inspired by Weller, Douglas, and Mason, and was intended as a discourtesy and insult to the opposition." *First Blows of the Civil War*, p. 340.

the committee made its report.<sup>1</sup> The material contents of the report was the following: the assault is a breach of the privileges of the senate, but the senate has not jurisdiction of it; only the house of representatives can punish Brooks, and hence the senate should lodge a complaint against him with the house. Constitutionally, this was entirely correct, and hence the senate, by the adoption of the resolutions of the committee, fulfilled its official duty. But why the want of jurisdiction, as the report claimed, did not permit the the senate to pass any moral judgment on the deed, it is difficult to discover. Some of the senators took occasion later to do this, in a manner which excluded all doubt as to the fact that they voted for the motion of the committee only from necessity, because in Sumner's person the privileges of the senate were trampled under foot; they espoused the cause not of Sumner but only of the senate injured in the senator. They did not blush now that he had been really trampled under foot like a dog in the street, to use Douglas's expression, to act as if they believed that he would, as had been basely insinuated, try to take advantage of the public excitement and to make capital by representing a few bruises and excoriations as severe wounds. In reality, it was presumably owing only to the massive structure of his skull, and to his thick head of hair that he was not a corpse and it was still a question how it would fare with him, after the shock his entire nervous system had received. Years passed before he could resume his seat in the senate, and, spite of his powerful constitution, he never entirely recovered from the effects of the blows from Brooks's gutta-percha cane. But his fellow senators made ill-natured comments on the awkward and undignified comedy he was playing.

<sup>1</sup> See the Report, Congr. Globe, 1st Sess., 34th Congr., p. 1317.

In the house of representatives, Campbell, on the 23rd of May, moved the appointment of a committee of investigation. Only after a lengthy debate, in which the southerners exhausted every means which the order of business afforded, to prevent the adoption of the motion, or at least to delay it, was the resolution passed, by a vote of 93 to 69. On the 2nd of June, the committee laid a majority and a minority report before the house.<sup>1</sup> The majority demanded the expulsion of Brooks, and a vote of censure on Edmundson and Keitt; the minority consisting of Howell Cobb of Georgia, and Greenwood of Arkansas, recommended a declaration that the house did not have jurisdiction of the affair and therefore did not wish to express any opinion on it. The minority alleged that they, too, on this ground, had themselves passed no judgment, but from their utterances it was very plain that, in their opinion, Sumner had not only abused the right of free speech in the grossest manner, but that because of the publication of his speech he could not appeal to the constitution which prohibited his being brought to account for any words he had spoken, in the senate, except before the forum of public opinion, and that Brooks, therefore, had violated no privilege of the senate, but that from the standpoint of morals he was fully justified or at least excused, on account of the enormity of the provocation. So far as the question of jurisdiction was concerned, the report of the minority had, on superficial examination, the appearance of a calm and thorough constitutional investigation, because richly interlarded with quotations, but when looked at more closely, all that was needed to see that it was a coarse tissue of sophistry was a plain, logical mind. Not a trace of judicial impartiality is to be found

<sup>1</sup> See the two reports and the records of the evidence. *Ib.* pp 1312-1367.

in its reasoning; from the first sentence to the last, it is the argument of an advocate whose task it is to win the bad case of his client. But as frequently happens to lawyers who are assigned such a task, Cobb made the mistake of wishing to prove too much. That the punitive power of the two houses of congress was limited to the improprieties which the members committed during the sessions, no one could be persuaded who knew the alphabet of the history of parliamentary law in England and the United States. The majority report refuted the whole reasoning by a simple reference to the fact that the house, in the analogous cases which it had had to decide, had declared itself possessed of jurisdiction, since otherwise it would not be able to protect itself sufficiently, and its punitive power was granted it that it might defend itself.<sup>1</sup> To say nothing of the fact that the defence of its honor was the duty of each house not during the hours it is in session only, according to Cobb's theory, before a vote on an important and doubtful measure is taken, any number of its opponents might be cudgelled into insensibility and the victory thus won at the cost of a fine for disorderly conduct imposed by a police justice. If the blows had not been inflicted on Sumner by Brooks but on Brooks by Sumner, Cobb and Greenwood would never have declared that it did not concern the senate and house of representatives whether their respective members, because of the speeches made by them, fell upon one another with murderous intent, provided they did not do so during the sessions. In truth, the basis of their resolution was the argument: the man cudgelled is the fanatic, Sumner, and he deserved the blows he received because he dared to attack the slavery so inconsiderately. This argument

<sup>1</sup> On the question of jurisdiction, see especially Simmons' speech, *Congr. Globe*, 1st Sess., 34th Congr., App., pp 815-818.

sufficed to let them get over the very troublesome difficulty that the weighty contrary decision of the house in 1828, was given on the basis of a report made by McDuffie, and McDuffie was not only one of the most brilliant stars among the statesmen of the south, but a representative of South Carolina.

Brooks's cause was the cause of the south; so thought not only Cobb and Greenwood, but almost all the representatives of the south. Of those who took part in the debate, only Etheridge of Tennessee, Cullen of Delaware, and Hoffman of Maryland, condemned the act, and Hoffman had the courage even to vote for the expulsion of Brooks. The most decent among the rest hid themselves behind the constitutional subtleties which Cobb had collected. Several as for instance Clingman thought that so much fuss should not be made about a trifle: blows between members of congress were nothing unheard of. Some had the effrontery to express their warm acknowledgements to Brooks or even tried, like Savage of Tennessee,<sup>1</sup> to surpass the brutality of his act by the brutality of their language. On the ballot on the motion of the majority of the investigating committee, all the representatives of the south, with the exception of Hoffman, voted in the negative. The vote stood 121 to 95, and the motion was, therefore, rejected, as a majority of two-thirds was necessary to its adoption.

After the vote, Brooks took the floor. That not the least intimation of regret of any kind would pass his lips,

<sup>1</sup> "Not only did he (Sumner) deserve what he received, but every honest hand on earth ought to have a whip to scourge the villain around the world. . . . To call Sumner's mouth the Aztean stable would be no great extravagance of speech. If it were a grand sepulchre, into which the dead of his much loved African race had been cast for a thousand years, it could not contain or produce a more disgusting abomination than this loathsome speech." *Ib.*, p. 914

now that the entire representation of the south had taken such a position on the affair, was self-evident. That, however, he would venture to recall the appellation "gentleman" applied to Pennington who had characterized the act as it deserved, because the latter could not understand the meaning of the word, must have been a matter of surprise. Even the foulest abusive terms to be found in the English language launched against Sumner, Pennington and the abolitionists in general, did not throw so glaring a light on the man and the entire situation as this retraction from Brooks's mouth. How could the chasm made by slavery between the north and the south be bridged over when even the idea of what constituted a gentleman, had, under the two forms of civilization, gone through such different processes of development that the north could not understand what the south understood by the term, nor the south the north? And had it not really come to this, when Brooks was not only tolerated in decent society but could declare the real representatives of the moral judgment of the population of the free states incapable of understanding the feeling and action of a gentleman? He honestly believed what he said, and was not only convinced that he had acted like a perfect gentleman, but that he had deserved well of his country. He resigned his seat, as he expressly stated, that his constituents might be able to show that they approved these views, and he gave expression to his confident expectation, that the day would come when his honest opponents would thank him for his act. After giving notice several times that his cane and pistols were ready for further service, he proudly left the hall with a high head and the assurance that he would soon undoubtedly resume his seat in it again.

With the consciousness that he was a great man, he left it, and like a triumpher covered with laurels he returned



to it again: he was re-elected<sup>1</sup> with only six dissenting votes, and had spent the interval in the most agreeable manner, being feasted, given receptions and receiving tokens of honor, in the form of gifts of every kind.<sup>2</sup>

When he announced his resignation on the 14th of July, in the house, he knew that it would so turn out, for from the very first day, the southern press had, we may say, without exception,<sup>3</sup> not only justified his act but had uttered a genuine shout of jubilation over it. The *South Side Democrat*, whose editor the Democrats had, for a long time, wished to make secretary of the house of representatives hastened, on the receipt of the telegraphic information of the 24th of May, to give expression to its great joy at the classical caning of Sumner by the chivalrous Brooks.<sup>4</sup> The *Richmond Examiner*, too, lauded the act as a victory, but did not seem to look upon the caning as altogether classical, as, in its opinion, Sumner had been struck down by cowardice.<sup>5</sup> The mild *Richmond Whig*

<sup>1</sup> The *Independent*, Aug. 6, 1856.

<sup>2</sup> See, for instance, the report in the *Carolina Times* of Aug. 30, 1856, on his reception in Columbia, where valuable presents were made him, and mayor Arthur spoke of "our pride in claiming you as one of Carolina's noblest sons."

<sup>3</sup> The *Carolina Times* (Columbia, S. C.) of May 26, writes "The only southern paper as yet which has been pleased to denounce the act as 'a most outrageous assault' is the *Savannah Georgian and Journal*. We have no respect for the sickly sentimentality of such journalists. . . . Col. Brooks has immortalized himself and he will find that the people of South Carolina are ready to indorse his conduct. . . . we hope that arguments stronger than words will hereafter be used on every convenient occasion."

<sup>4</sup> The telegraph has recently announced no information more grateful to our feelings than the classical caning which this outrageous abolitionist received on Thursday at the hands of the chivalrous Brooks of South Carolina. . . . no punishment is adequate to a proper restraint of his insolence but a deliberate, cool, dignified, and classical caning."

<sup>5</sup> "Peace has her victories no less than war Mr. Charles Sumner

regretted that Brooks had not, as he first intended, made use of a horsewhip or cowhide, but hoped that it would soon be Seward's and others' turn.<sup>1</sup> The cool, statesman-like Petersburg *Intelligencer* could agree in that wish only conditionally, because its joy was saddened by the consideration that Seward and his dirty associates would turn the blows to account, for their accursed cause.<sup>2</sup> The Richmond *Enquirer* which enjoyed a very different reputation south of Mason's and Dixon's line, by no means approved this view. It congratulated the south on the good results which the great deed would have. In its opinion, the mean, unblushing abolitionists in the senate would have to be brought into subjection by the whip, and was confident that they would soon learn to behave them-

senator from Massachusetts, whose reputation as scholar rests chiefly upon a discourse on the foregoing text, seems bent upon illustrating his theory in his own person . . . when called for cowardly vituperation, falls to the floor an inanimate lump of incarnate cowardice and most glorious exemplar of the man of peace."

"The only regret we feel is that Mr Brooks did not employ a horsewhip or a cowhide upon his slanderous bark, instead of a cane. We trust the ball may be kept in motion. Seward and others should catch it next." The article is headed: "A good deed," and the blows are called "elegant and effectual."

"We are exceedingly sorry that Mr Brooks dirtied his cane by laying it athwart the shoulders of the blackguard Sumner. We regret that he did so, not because Sumner got a lick amiss, not because he was not justly entitled to all he got and more beside, but because the nasty scamp and his co-scamps will make capital for their foul cause out of the affair. They will raise a howl which will split the public ear about the violation of the privileges of debate—southern bullying, etc. Master Horace Greeley in particular will jump out of his boots and breeches, have about four thousand fits, and thus put up the price of antiseptic and burnt feathers throughout the country. Disagreeing with the Richmond *Whig* as to the effect of Sumner's thrashing we entirely concur with it, that if thrashing is the only remedy by which the foul conduct of the abolitionists can be controlled, that it will be very well to give Seward a double dose at least every other day until it operates freely on his political bowels."

selves like well-trained dogs, if they received a blow for every word spoken against the south.<sup>1</sup>

There were certainly many men in the south who thought differently. It could not, however, be doubted that the press gave correct expression to public opinion in general. But when an overwhelming majority of the organs of public opinion could express themselves in such a manner on such an act, was there not a frightful justification for Sumner's calling slavery a harlot? Of its womb was born the horrible monster of public spirit from

<sup>1</sup> "In the main, the press of the south applauded the conduct of Mr Brooks, without condition or limitation. Our approbation, at least is entire and unreserved. We consider the act good in conception, better in execution, and best of all in consequence. The vulgar abolitionists in the senate are getting above themselves. They have been humored until they forget their position. They have grown saucy, and dare to be impudent to gentlemen! Now, they are a low, mean, scurvy set, with some little book-learning, but as utterly devoid of spirit or honor as a pack of curs. Intrenched behind a 'privilege,' they fancy they can slander the south, and insult its representatives with impunity. The truth is, they have been suffered to run too long without collars. They must be lashed into submission. Sumner, in particular, ought to have nine and thirty early every morning. He is a great strapping fellow, and could stand the cowhide beautifully. Brooks frightened him, and at the first blow of the cane, he bellowed like a bull calf. In the absence of an adequate law, southern gentlemen must protect their own honor and feelings. It is an idle mockery to challenge one of these scoundrels. It is equally useless to attempt to disgrace them. They are insensible to shame, and can be brought to reason only by an application of cowhide or gutta serena. Let them once understand that for every vile word spoken against the south, they will suffer so many stripes, and they will soon learn to behave themselves like decent dogs—they can never be gentlemen. Mr Brooks has initiated this salutary discipline, and he deserves applause for the bold judicious manner in which he chastised the scamp, Sumner. It was a proper act, done at a proper time and in the proper place.

"Of all places on earth, the senate chamber, the theatre of his villainous exploits, was the very spot where Sumner should have been made to suffer for his violation of the decencies of decorous debate, and for his brutal denunciation of a venerable statesman."

which the south itself would have recoiled, if it could have seen anything which concerned slavery as it saw that which had no connection with it. The people of the south and the people of the north had sprung from the same loins, they had brought over with them from the mother country into the new world and maintained there institutions essentially the same, they delighted in the same traditions, formed their minds and hearts on the same literature, prayed in the same manner and with the same uprightness to the same God; but under the influence of slavery on the one hand and full democratic freedom on the other, two radically different civilizations had been developed, which connected and grown together into one national, political whole, had completely lost the capacity of understanding one another and when brought in contact with one another, met as fire meets water. This it was that made Brooks's attempt appear in a still more glaring light, and hence the act was a historical event of eminent importance. The treatment of the case in congress, and still more, the attitude of the southern press towards it, had shown that, as the *Independent* said, Brooke was only the arm that did the act, but the real doer<sup>1</sup> was the slavocracy. As the slavocracy had vindicated its right in Kansas, by the most audacious violation of the right of suffrage, that is of the fundamental principle of American nationality, by the prostituting enslavement of all political authority with revolvers, rifles and cannon, to prevent the north's peacefully competing for the territory which had been forever pledged to freedom, so it now declared itself authorized and willing to prescribe to its opponents in the federal legislature, with canes and cudgels, the bounds to which they might go in their

<sup>1</sup> "And with one consent it is declared that for the crime of free speech it was done and deserved!" The *Independent*, June 12, 1856.

opposition. But the *Richmond Enquirer* correctly judged the situation when it said that the south would have to give notice to the north of the cancellation of the national compact, unless the latter would submit to it.<sup>1</sup>

Was it to be expected that the north would be willing to purchase the maintenance of the Union at this price? It was all the more certain that it would not agree to do so, as it lulled itself the nearer the day of the breach ap-

<sup>1</sup> "It is idle to talk of union, or peace, or truce with Sumner or Sumner's friends. Catiline was purely itself compared to the Massachusetts senator, and his friends are no better than he. They are all (we mean the leading and conspicuous ones) avowed and active traitors. The sending of the congressional committee to Kansas was done with the treasonable purpose of aiding the rebellion in that territory. The Black Republicans in congress are at open war with government, and like their allies, the Garrisonian abolitionists, equally at war with religion, female virtue, private property, and distinctions of race. They all deserve the halter, and it is vain and idle to indulge the expectation that there can be union or peace with such men. Sumner and Sumner's friends must be punished and silenced; government which cannot suppress such crimes as theirs, has failed of its purpose. Either such wretches must be hung or put in the penitentiary, or the south should prepare at once to quit the Union. We are the most moral, religious, contented, law-abiding people on earth, and are daily becoming more so."

"The reverse of all this is, for the time at least, true of the north. If you cannot expel the Black Republicans from power, punish them and silence them for the future, you are incapable of self government. You should adopt a military despotism. We adhere to our Republican institutions. Your sympathy for Sumner has shaken our confidence in your capacity for self government, more than all your past history full of evil portents as that has been. . . . We are not surprised that he should be hailed as a hero and saint, for his proposed war on every thing sacred and divine, by that pandemonium where the blasphemers Garrison and Parker, and Andrews, with their runaway negroes and masculine women congregate. He belongs to that crew himself. He is a proper saint for a Free Love Saloon, or an Infidel Convention. But unless there be enough of patriotism, religion and morality at the north, to express general detestation of his crimes and congratulations at his merited castigation, we had better part company." *The Richmond Enquirer*, June 9, 1856.

proached, more and more into the illusion, that the Union was not seriously imperilled. Seward who knew the feeling of the north as well as the Richmond *Enquirer* knew that of the south was of an opinion, as to the consequences of the assault, very different from that entertained by the organ of the Fire Eaters. He claimed that the blows which had fallen on Sumner's head had done more for the freedom of the territories than all the speeches that had ever been made in congress.<sup>1</sup> And those were mistaken who believed that the storm which the disgraceful act had excited in the heads and hearts of the northern population would soon blow over. Massachusetts in which the spirit of '76 manifested itself more powerfully every day was determined that the 22nd of May should not be forgotten. It chose no new senator, but waited, patiently, year after year, until the martyr of liberty and of fearless speech could again resume his seat. His empty chair daily told the senate and the country anew how southern senators deliberately looked on and did not stir from their chairs when a representative from South Carolina fell upon a senator from Massachusetts and beat him like a dog in the street until, covered with blood, he lay senseless at the feet of his assailant, on account of a speech on the slavery question which neither the president of the senate nor a single senator had interrupted by a call to order.

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., App., p. 668.



## CHAPTER VII.

## THE CINCINNATI AND PHILADELPHIA CONVENTIONS

Under the immediate impression made by the events of the 21st and 22nd of May, the Democratic national convention of the 2nd of June met, in Cincinnati. It did not find itself under the disagreeable necessity of immediately taking a position on the heroic deeds of Donaldson and Brooks. But the significance of the Lawrence outrages and of the assault in the senate chamber consisted in this, that they were not the crimes simply of certain individuals. They were manifestations of the spirit in which the radical slavery was resolved to carry on the contest on the slavery question, and in view of this fact, the convenient and safe policy of silence and passivity was impossible. The compact between the slavery and the Democratic party stood in need of a new ratification on the basis of a revision of its stipulations. In the bitter explanations between Democrats and Know Nothings, during the election for speaker, Cobb had stated, with satisfaction, that in the Democratic party there was no longer any trace to be found of Free-Soil heresies,<sup>1</sup> but the history of this purifying process had plainly shown that it could not venture a complete identification with the extreme wing of the slavery. The slavery had to decide whether, and to what extent, it would allow its programme to evaporate in the official programme of the party in order to still

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr. p. 67.

fight its battles with the solid mass of the Democrats, and the Democratic party had to determine the limits to which consideration for its northern adherents permitted it to go. The party could be held together only by a compromise, and only by a mendacious compromise entered into solely for the electoral campaign. The radical slaveryocracy did not even pretend to agree to a surrender of any part of its demands. Its higgling and bargaining had reference only to the question, to what extent it would allow ambiguous declarations of the party to be considered express and undoubted pledges to them. The party, on the other hand, would have to agree to the utmost concessions it could make, although it knew they were looked upon, by the slaveryocracy, only as so much payment on account. The internal dissolution of the party by the slavery question had therefore to keep pace with its external consolidation of the party on the same question.

If the north had given Kansas up as lost, as soon as the Kansas-Nebraska bill had become a law, it might have been otherwise; for the opposite interpretation given to the "great principle" by its authors would have maintained the character of an academic controversy. The more emphatically the possession of the territory was contested with the south, the plainer it became that the principle so artfully compounded of aye and nay, was a dividing wedge which, at every effort to break the resistance of the enemy, was driven deeper into the cleft made by cunning self-mendacity, in the Democratic party. So long as the slaveryocracy believed that it could be sure of success, it justified the chameleon-like character of the principle adopted by the party, by the fact that the decision had been left to the Supreme Court of the United States. This was to some extent the case still, because it was rightly considered that the issue of the electoral campaign might

depend upon the possibility of interpreting the party programme in opposite senses on the two sides of Mason's and Dixon's line.<sup>1</sup> But among the radicals, the number of those who peremptorily called for the abandonment of the old tactics increased constantly. The present administration had certainly not been wanting in honest zeal for the cause of the south, and yet it became more doubtful from month to month whether the south would retain the victory. Of what use was it then to purchase the election of a president devoted to it, at the price of carrying a Janus head as a coat of arms, if the territories were not also won? The Border Ruffians who thus far had made heroic efforts would finally grow tired of the game, and, besides, the decent elements of the south were visibly sick of it,<sup>2</sup> while it spurred the north on to more and more energetic opposition; the instruments which it would still have been necessary to use in the future had already, by their inconsiderate zeal, become the worst enemies of the cause. The struggle, therefore, had to be continued under circumstances incomparably more unfavorable than those under which it had been begun. Was it not folly to wish to continue the old method, although the increasing disfavorableness of the conditions was undeniably the logical

<sup>1</sup> Compare *Ib.*, p. 1093.

<sup>2</sup> The *Evening Post* published a letter from Kansas in which we read: "Missouri seems to get quite sick of her dirty work. Buford has fled south, and his company are breaking off for home as fast as they can steal funds sufficient."

The *Marion (Ga.) Telegraph* gives a report of a meeting of the Kansas Association of the place which adopted this resolution: "That in consequence of a failure on the part of our fellow-citizens to raise funds sufficient to defray the expenses of the Macon-Kansas Emigration Association to the territory of Kansas, and at the same time to the strong tide of opposition given to this enterprise by a portion of our fellow citizens—that this association now disband." The *Independent*, July 24, 1856.

and inevitable consequence of that method? The election of a president acceptable to it, and the preservation of the Democratic party could not be to the slavery an end in itself but only the means to an end. In itself, it cared as little for the former as for the latter, and hence it had to demand and to endeavor to acquire the right of the unhindered extension of slavery, on which its existence depended, at the risk of being defeated in the campaign and of the Democratic party's going to pieces.

This was the reasoning of the extremists, and it was logically unassailable. The northern Democrats had lauded the Kansas-Nebraska bill as a great triumph, in order to move the masses to a surrender of the prescriptive rights of the north, and now the radical slavery was guilty of hypocritical untruth against them. It feared that it would not be able to win Kansas again, spite of the "great principle" and appealing to those declarations of its inventors, it claimed that, by that very principle, it had been defrauded of its constitutional equality of rights. Etheridge and Marshall who had become convinced from the history of the Kansas troubles, that the south would never gather anything but thorns and thistles from the tree of "popular sovereignty," declared that the squatter-sovereignty Democrats were not a whit better than the Republicans for they were only working with different means for the destruction of slavery.<sup>1</sup> If the south, in free and peaceful competition for a territory, had always to be defeated and, after the experience had in Kansas, there could no longer be any doubt of that—this was cor-

<sup>1</sup> Congr Globe 1st Sess. 34th Congr, p 327. Keitt had, in a speech in South Carolina, spoken of the "monstrous doctrine of squatter sovereignty, born of political cowardice and selfish ambition," and asked the question, whether the south could still go with the Democratic party, since it "differs in the defence even of its fundamental measures." *Ib.*, p. 155

rect, and from it, it followed directly, that the Democratic party would have to drop its double-faced principle, or that the slavery would have to cancel its compact with it. The *Richmond Enquirer* of the 28th of April, formally demanded that the former should be done, but at the same time made the significant admission that this was a new claim of the slavery.<sup>1</sup>

The doctrine was not new, but the demand to incorporate it in the official confession of faith of the Democratic party was new. The place of the ambiguous principle of "popular sovereignty" was to be taken by the principle of "state equality," according to which slavery had a legal existence, under the constitution, in all the territories, because as Keitt expressed himself, the right of a southerner to his slaves was absolutely the same as the right of a northerner to his horse;<sup>2</sup> the right of self-determination

<sup>1</sup> "The Cincinnati Convention      An entirely new issue will be presented in the approaching presidential canvass—an issue which it is impossible to avoid or evade. The opposition is essentially an abolition party. It proposes to repeal the Kansas-Nebraska act and the Fugitive Slave Law. It thereby denies state equality. The democracy oppose the repeal of those laws, and seem thereby to maintain state equality. But all room for doubt or cavil must be removed. We must, in the Cincinnati platform, repudiate squatter sovereignty, and expressly assert state equality. We must declare that it is the duty of the general government to see that no injurious distinctions are made between the people or the property of different sections, in the territories. We do not mean to declare. It may be, that the assertion in the platform of the abstract proposition of state equality may suffice to carry along with it the consequences which we desire. But it is often charged that the Kansas-Nebraska bill contains the doctrine of squatter sovereignty, and that squatter sovereignty is the most efficient agent of Free Soilism. Some northern Democrats have maintained this ground. Now this gun must be spiked. It must appear from our platform that we make no practical state equality, and repudiate that construction of the Kansas-Nebraska act which would defeat it."

<sup>2</sup> Cong. G. Doc. App. p. 251

of the population, that is the right to abolish slavery, arose only after the metamorphosis of the territory into a state.

This completed the nationalization of slavery, and degraded the principle of universal personal liberty into a "peculiar institution" of the northern states. Only their "sovereignty" made it possible for them to make a difference between a slave and a horse as objects of property, which had no foundation in the constitution nor in nature, nor in Christian morality.

But, rightly or wrongly, the slavocracy had to hold to this limit of the sovereignty of the states, because it would otherwise destroy the foundation on which the whole structure of its claims and its power rested. If the radicals succeeded in their demand, it would be the crowning of the structure, but the demand showed at the same time that that structure was hollow and decayed from top to bottom, for it was an admission that the slavocracy would be defeated if left to itself. Only provided the federal government did the last thing for it which it could do in respect to the unsettled land of the Union did it believe that it would be able to resist the pressure of the natural development of circumstances. And that too was evidently an illusion. If the domain of slavery could not be extended with the species of squatter-sovereignty which Kansas possessed, neither could it be extended, if the legal prohibition of slavery could come only by the adoption of a state constitution provided the majority of the population of the northern states remained true to their resolution not to tolerate such an extension. The south could not compete with the superior capital, the superior economic energy and the superior numbers of the north. The history of Kansas proved that the old belief, that the shattered political supremacy of the slavocracy



could be restored by a definite, legal solution of the territorial question, was folly. If the opinion was well founded, that the safety and ultimately even the existence of slavery depended on the assertion of that political supremacy, and that, therefore, it was the condition precedent of the south's remaining in the Union, the key-point to the battle field, for the slavocracy, no longer lay in Kansas nor anywhere else north of the Missouri line, but in the tropics, and in the tropics not of the old world only but of the new. If the political supremacy of the slavocracy could be regained at all, it could be only by the annexation of tropical and sub-tropical territory and by the re-introduction of the African slave trade.

How fully conscious the south was of the importance of the first point, we have already seen, and we shall soon have further proof of it. But we shall also in due time produce documentary proof, that the radicals, even now, began to recognize the importance of the second question, and that the idea, at first scouted universally in the planter states proper, began to spread with frightful rapidity. But the territorial question was still universally considered the point on which the slavery question turned. It could not, therefore, but be of the greatest significance, for the fate of the Democratic party and, hence, eventually for the issue of the electoral campaign, how the Cincinnati convention would meet the demand of the radical slavery.

Of an express recantation of the doctrine of squatter sovereignty, there could be simply no question. The struggle for Kansas could be carried on only on the basis of the Kansas-Nebraska bill, and the defence of that bill was based, by a greatly preponderating majority of the party, so emphatically and so exclusively, on the principle of squatter sovereignty, that a formal abandonment of

that principle would be the branding of the repeal of the Missouri compromise as a piece of infamy. Moreover its following in the north would have unquestionably been thereby lessened to such an extent that its defeat would have been as good as certain. Hence there was no reason why it should burn its ships behind it, since the southern radicals would be still willing to enter into negotiations. They were still, in the south itself, so small a majority that they would certainly think twice before they attempted to form a party of their own. Premature resolves might spoil their whole game, for the south was evidently not yet in a condition to be forced to take extreme steps by a little crowd of hot-spurs. And they, themselves, were not yet ready to go very far probably because their love for the Union was not yet entirely extinguished in them and certainly from calculation, since on the one hand, no preparations, in any thing, had yet been made and, on the other, much could be attained in four years with a subservient administration. Sincere as their radicalism was, they remained true to the old tactics of the slavocracy, never to insist on its demands being immediately granted. But they were no less determined than on previous occasions to insist on a payment on account.

It was not an easy thing to make that payment, and not wound the tender conscience of the north. Over two days were devoted to the problem, and then as happy a solution of it as can well be imagined was found. The platform<sup>1</sup> began with a reprint of the Baltimore platform of 1852. The thought was a very ingenious one. An irrefutable demonstration was thus furnished the thin-skinned conservatives of the north, that the party had remained absolutely true to itself, and that its standpoint had not changed.

<sup>1</sup> It is printed in full in the Congressional Globe, 1st Sess., 24th Congr., App. pp. 714, 715.

in the least. That the facts, in many instances, were no longer correctly described by the language then used was of no importance, and that the agreement of the second part with the first was very questionable was scarcely discovered by the great crowd. The platform of 1852 for the north and the supplementary articles for the south, was an equitable and just division. Any possible criticism of the supplementary articles in the north could be refuted all the more effectually with the platform of 1852, since the former only expressed what the south wanted, but were entirely silent on what should not be told the north. The party declared that it wished now and at all future time, to abide irrevocably by the Kansas-Nebraska bill, the principle of which was the foundation of the compromise of 1850, but not a word was to be found on the rights of the territorial population in respect to slavery. Not "popular sovereignty" but the complete non-interference of congress in respect to slavery, in the territories, was characterized as the principle of the Kansas-Nebraska bill. Besides this, the principle of the equal rights of all the states was set up, but without any intimation as to whether that principle should be understood to mean what the radicals of the southern states now called "State Equality." The latter were, therefore, thrown a word which as had already happened in the case of so many other words, they might, with a little skill, convert into a powerful lever, into a real force, and to which certainly no northern Democrat could object, for expressed thus generally every Republican would, without the least hesitation, have subscribed to the principle. Finally the territories were recognized to have the right, as soon as they had the requisite population, to give themselves a constitution permitting or prohibiting slavery as they thought best.

This was evidently the decisive sentence in the platform. That it was susceptible of a different interpretation is incontrovertible, and hence it was certain that, in the north, where it seemed necessary, its irreconcilability with the principle of popular sovereignty would be very seriously questioned. But if the territorial population, even during the territorial condition, might permit or prohibit slavery, it was plain that it could not lose that right on the adoption of a state constitution, and the declaration could have a rational meaning only if the territorial population should acquire that right for the first time on the adoption of a state constitution. Besides, it had been declared in the preceding resolution that new states should be admitted into the Union, without any regard to what their constitutions determined in regard to slavery. The repetition of what had been said already had, therefore, no discoverable, rational object, unless it could be put in a form from which, as a very natural conclusion, the repudiation of the principle of squatter-sovereignty followed. Spite of the reprint of the Baltimore platform, the rudder had been perceptibly turned.

The manœuvre was executed so cautiously and so skillfully that it was no wonder un-schooled eyes were not able to recognize its meaning from the manipulations of the pilots. But its effects must have enlightened them as to that meaning. While the *Richmond Enquirer* expressed itself fully satisfied with the platform and claimed that it corresponded perfectly with the programme of the 28th of April,<sup>1</sup> Trumbull in the senate could obtain from

<sup>1</sup> It wrote on the 6th of June: "With the utmost possible precision and emphasis of language these resolutions affirm the great vital principles, first, of the constitutional guarantees of slavery; and secondly of the equality of the states with respect to their sovereign equality and political rights. In equally clear and conclusive terms,

Douglas no binding declaration as to whether he still advocated the principle of squatter sovereignty. The author of the Kansas-Nebraska bill again demonstrated his extraordinary adroitness by delivering a long and brilliant speech without giving any answer to the question and referring his colleagues to the Cincinnati platform.<sup>1</sup>

The additional articles of the platform contained some very weighty declarations in respect to the foreign policy of the country. But they were not of decisive importance in the electoral campaign, and hence may be properly considered, hereafter, in another connection. The party stood and fell with its confession of faith in respect to the territorial question, and undoubtedly as that confession of faith made new concessions to the slavocracy, the question of the Richmond *Whig* was fully warranted—whether the south or the north was to be deceived by it. Perhaps the person of the candidate might make things clearer.

Buchanan whose sight was sharpened by his own blighted but not surrendered ambitions, had become con-

the doctrine of squatter sovereignty is repudiated by the platform of the Democratic party."

On the 13th of June, it took up the subject again in a leader entitled "State Equality." In the article here referred to we read: "This new doctrine is the most popular ever broached by a political party. . . . The Cincinnati convention leaves no room to doubt that the principle of state equality surpasses that (Missouri) compromise in popularity, north and south."

It must be remarked here that this principle was understood by many southern radicals, as for instance by Etheridge, to mean that the slaveholders might go into the territories with their slaves not under the constitution but independently of it.

<sup>1</sup> On the 9th of June, 1856. He defended his refusal to give a clear answer to the question, by saying that it would not be proper "to forestall a judicial decision by town meetings, by political conventions, or by the action of the senate." Congr. Globe, 1st Sess., 34th Congr., pp. 1370, 1371. See the vigorous refutation of his sophisms by Turnbull. *Ib.*, p. 1372.

vinced, as early as in May, 1853, that Pierce was with the support of his cabinet, working industriously for his re-election.<sup>1</sup> Pierce had tasted the troubles and cares of his office but had not grown tired of it. He would have been very glad to have kept it four years more, and, to the very last moment, he did not completely give up the hope that his wish would be realized, provided the Democratic party remained at the helm. His competitors did not, by any means, look upon him as a rival from whom they had nothing to fear. As far as it could be done without its being too noticeable, he had, in the filling of public offices, taken care to constitute for himself a body guard of federal officials; and that the slaveocracy were favorably inclined to him, was beyond a question. On their gratitude he could not, indeed, reckon, for that gratitude was political calculation, without any admixture of sentimentality. Generous as they were in their testimonials of favor to their northern tools, they were provident of the rewards at their disposal and managed them well. Only the man who was able to render further good service to the slaveocracy had anything to expect for that which he had rendered already. Precisely on this account, it would have been very agreeable to them, if Pierce became his own successor. So far as their special interests were concerned, he was fully tried; in his relations with them

<sup>1</sup> "I had not been in Washington many days before I clearly discovered that the president and cabinet were intent upon his re-nomination and re-election. This I concluded from the general tendency of affairs, as well as from special communications to that effect from friends whom I shall not name. It was easy to perceive that the object in appointments was to raise up a Pierce party, wholly distinct from the former Buchanan, Cass, and Douglas parties, and I readily perceived, what I had before conjectured, the reason why my recommendations had proved of so little avail." *Curtis, Life of James Buchanan*, II., p. 50.



he was without a vestige of a will of his own, and in the advocacy of their cause against their opponents, he was a man of such tenacity and regardlessness that he might have been taken for a real character, if only that side of his activity were looked at. A man for whom officials and the slavery worked with their combined strength, was a candidate who had, under all circumstances, to be seriously reckoned with, even if his personal worth was below zero. Hence the *New York Tribune*, for instance, believed for a long time that Pierce had the advantage of all his rivals and that, indeed, his nomination was well nigh certain.<sup>1</sup> But it was mistaken in this, for it was evident that very weighty reasons stood in the way of the fighting of another national electoral battle under his flag.

When the Baltimore convention nominated Pierce, he was a "dark horse" to a far greater extent than the Hunters, Rusks, Brodheads, etc., whose names were now occasionally mentioned, in the expectation that the requisite number of votes would not be united on any of the candidates proper. The great majority of the people could scarcely remember having heard Pierce's name before, notwithstanding which, his administration was looked forward to with great expectation. No other reason could

<sup>1</sup> Kapp, *Geschichte der Sklaverei*, p. 400, goes too far when he says that Pierce's re-nomination was not discussed. I do not even consider him entirely correct when he p. 414, describes the 122 votes cast for him on the first ballot as a "flattering compliment, although the *N. Y. Tribune* which had in the meantime learned to judge the situation better was, in a certain sense, right when it declared him on the 24th of May to be "virtually beaten already—*hors de combat*." As a matter of fact his nomination had become an impossibility before the meeting of the convention, but the majority of the southern delegates were not yet so fully convinced of this that their vote could be based upon only as a compliment. They wished to make another attempt, although they thought it would probably not be successful.

be discovered for this than that he had been elected by an unusually large majority. Pierce was not, of course, responsible for the fact that men made the number of votes cast for him or rather for the party, in other words the number of votes cast against the Whigs the measure of his personal ability and personal virtues. But precisely because it was so senseless to do this, the disappointment was now felt all the more bitterly. And that disappointment could scarcely have been greater than it was. The United States had never yet had so pitiable an administration, and although Marcy, the secretary of state, was unquestionably one of the strongest and most distinguished men in the party, the foreign policy of the country, in regard to which the national feeling was most sensitive, afforded a very unrefreshing picture. There had been no lack of bold assaults, but their character was such that they either brought the blush of shame to the cheek of every honest man, as did the Greytown affair and the Ostend Manifesto, or, as in the question of the Sound-duties, the courage was wanting to make action correspond to words. Even the immense enthusiasm which the Koszta affair had excited, soon abated among the educated classes, because Marcy's much lauded letter made on many rather the impression of an apology or excuse than of a thorough snubbing of the "European despots." The only thing the people could recall with unmixed satisfaction was the fact, that the closing of the illegal English recruiting bureaus had been effected, and still this closing was a success which did not weigh so very heavily in the scale. To a great extent, people may have judged too harshly, because they had expected too much, but so far as the practical question was concerned, that was a matter of perfect indifference. No one looked with pride and enthusiasm at the history of the administration, whether

he contemplated its record in foreign or in domestic affairs, and the prevailing feeling, entirely independent of men's party views, was a peculiar mixture of abashed disenchantment, contemptible indifference and commiserating indignation.<sup>1</sup> Pierce's renomination would, therefore, have been looked upon, within the party, to a great extent, as a direct affront, and hence as a very unwise provocation of fortune. There was nothing in favor of the choice of Pierce, but the satisfaction of the slavery party at his course in the slavery question, and that very satisfaction was with the party the weightiest reason against it, although Pierce's course in the slavery question was in full accordance with the intentions of the party and these had in no way changed. The lesson of the elections of

<sup>1</sup> Morrill of Vermont gave expression to public opinion, caustically but correctly, when he thus characterized the administration. Now it is embroiled with Spain, with Central America, then with England, Denmark, and France—provoking hatred and incurable irritation abroad, without securing love or respect at home. Regarded with universal suspicion by almost the entire civilized world, it has also aroused the hatred and defiance of savages whom it everywhere persecutes. If we were in a war today, we have no nation that we could reckon our cordial friend, unless we except Russia, the conqueror of Hungary. The leading characteristic of the Pierce administration is to have the biggest quarrel with the smallest power: to do most when it says least, and least when it says most. Like 'curs of low degree' when danger recedes its grows most belligerent. When its friends have occasion to brace up, and note its remarkably big words, they are sure to be humbled by the lame and impotent conclusion. It blows the loud bugle, and then faints. When it gives no warning, it is an 'army with bunnies,' and its enemies are stunned by the bombardment of Greytown, or some Know Nothing postmaster. But most unfortunate of all has it been in its spasmodic administration in Kansas. If the bill establishing the territory was properly characterized by Colonel Benton as a shilly shally willy wonty, domy-domy law, certainly never had law a more fit executive. The only doubt is, whether it is more grossly wrong when it will or when it won't—when it don't or when it can't. *Congr. Globe*, 1st Sess, 34th Congr., App. p. 681.

1854-55 was not yet forgotten. Although it was for the most part most emphatically denied, it was very well known, that the chief cause of their unfortunate issue was the Kansas-Nebraska bill, and it was just as well known that that law had not since then become more popular, although the first indignation had subsided, and many of the renegades had returned to the party.<sup>1</sup> It was, therefore, thought best not to give the people a candidate whose name was prominently connected with the detested law especially with its later history.

The same reasons could, of course, be urged against the nomination of Douglas, and with still greater force. But so far as he was concerned, the objection was made not so much by the north as by the south, and, to some extent, he was not, for the very reason that he was the originator of the Kansas-Nebraska bill, acceptable to the latter. His invention of squatter sovereignty had not stood the test, and hence the radicals felt towards him as if, after all, the south had been imposed on by him, although, of course, they did not impute such an intention to him. But even if the result in Kansas had corresponded with his intentions, his expectation that the slaveryocracy would show itself grateful to him would have been disappointed. It made use of the skillful and reckless man, but the vulgar demagogue whose intrinsic coarseness frequently manifested itself in a painful and even revolting manner,

<sup>1</sup> The Know Nothing Carile went so far as to assign the first place to the Free Soilers in the Cincinnati convention. "Sir, instead of appropriating to themselves the time honored name of Democrat, that convention at Cincinnati, composed as it was of Free Soilers, old line Whigs, Filibusters, and a few Democrats who still cling to the name after the principle has been thrown overboard--would have conveyed to the public much more clearly their distinguishing characteristic, as an organization, if they had called themselves the party of seven principles--'the five loaves and two little fishes'." *Ib.*, p. 650

grated on the feelings of the proud aristocrats of the south, and occasional side thrusts in the speeches of the radicals betrayed the fact that, with many of them, their dislike for Douglas amounted to contempt. Yet all this would have been overlooked in the interest of the party, if it had been believed that that interest would be promoted by his election. But people were so little convinced of this latter, that it may be said with greater truth, that the very opposite was the case. The qualities which made him so valuable an ally in the senate caused his elevation to the presidential chair to appear very hazardous. The south did not hold him in admiration, but it respected him, and in the White House, it would, in a certain sense, have feared him. Douglas had always been its readiest and most serviceable tool, but only because he supposed he was promoting his own interest by being such. If he once became convinced that he could advance it by taking the opposite direction, he would certainly not have hesitated an instant to take it, and to proceed in it, with the same stormy energy and unscrupulousness, that had distinguished him in the one he had previously followed. He was no doughface, but a demagogue carved out of material such that if he had been possessed of moral stamina and the requisite education, he might, in turbulent times, have become a great man. He was a character in his way, and such a character the slavery could not use in the White House, if he came from the free states. Only so long as the slavery lured the "little giant" on with the presidency could it absolutely count on him, but the moment it had paid him the price of his services, it would no longer have been sure of him, for he would have recognized the obligations of gratitude as little as the slavery recognized them towards him. It is more probable that he would have remained true to

the slavery, but when it suited him he would have made his own conditions and, as a crisis was apparently inevitable, contingencies were imaginable which might drive him to a formal breach with his patrons. But why should the south, even if it considered this last impossible, hazard the necessity of being obliged to enter into a covenant with a president made by itself, when it could find others, in any number, to whom the rash thought would never occur to have a will of their own to say nothing of doing their own will? The lords of the south with the inborn instinct of rulers were politicians too deliberate and too skillful to become guilty of such folly. They had resolved tacitly but immovably that, so long as it depended on them, Douglas should never reach the goal of his ambition. If Douglas's own vision, so clear in other things, had not been blinded by his ardent craving for the high office, he would have seen this himself as his bitterest political enemies had recognized it, and told it to him to his face.<sup>1</sup>

The considerations which made the nomination of Pierce and Douglas so impossible favored the nomination of the third chief candidate. James Buchanan, as a private individual, was acknowledged, on all hands, to be a man of honor, possessed of winning ways, an adulated society-man who had for many years enjoyed the reputation of being one of the most distinguished statesmen of the Union, although, spite of his long political life, he could not claim to be the father of a single fertile legislative

<sup>1</sup> Wilson had said to him on the 14th of April: "I venture to say that the honorable senator from Illinois will yet experience that sense of ingratitude which older statesmen have experienced. The men for who he fights cannot afford to be generous. An eminent politician once said that 'political gratitude is a lively sense of favors to come.' He may yet discover that the men for whom he has toiled are governed only by 'a lively sense of favors to come.'" *ib.*, p. 334.



idea, and therefore was, in reality, only a rather skillful diplomat, a good parliamentary orator, and a very serviceable party politician of the better kind. These were qualities which must have made him seem to inferior politicians a personage very well qualified for the presidency. During the contest over the Kansas-Nebraska bill, he had been minister to the court of Saint James, and, in so far as that worst of affairs was concerned, had not compromised himself in the least. He had, however in a letter frequently quoted, of the 21st of August, 1848, to a certain Sanford, declared in favor of the legislative competency of congress in respect to the territories, in the most unambiguous manner.<sup>1</sup> In the north, this could be turned to excellent advantage with those who had not manifested, in a satisfactory degree, the capacity to reconsider their views in relation to slavery and to fundamental constitutional questions; still, in the eyes of the south, it was, of course, no recommendation. But it was a long time since he had written that letter, and, in his eventful, political life, he had repeatedly shown that he could change his opinions, or at least that he was not embarrassed for reasons, to act as if he had changed them. His peculiar talent consisted in his being able to adapt himself, without effort, to all the changes of situation, and of still preserving perfectly the self-conscious appearance of the statesman firm as steel and true to his convictions. While Douglas had the courage to will immorally, when his interest required it, Buchanan could always find the best of reasons, not to will morally, when his interests or those of the party, seemed to forbid it. So far as the constitutional doctrines were concerned, the rapid development of

<sup>1</sup> "Having urged the adoption of the Missouri compromise, the inference is irresistible, that congress in my opinion, possesses the power to legislate upon the subject of slavery in the territories."

the struggle between the north and the south, viewed from the standpoint of the slavery had not always found him at the height of the situation, but when there was question of action, he had never forsaken the slavery, and all suspicion that he would ever dare to desert it was excluded. Few understood so well the art of avoiding everything that could vex or injure it, from the highest moral and patriotic motives, and of doing what was pleasing to it. The devotedness of the man who, under the circumstances then prevailing, had given Pierce, immediately after his election, the advice, to assign the first place in the programme of his administration to the acquisition of Cuba,<sup>1</sup> and who had then become one of the authors of the Ostend Manifesto, could be as little doubted as the devotedness of Franklin Pierce, himself. Spite of this, the great majority of the southern delegates not only gave the preference to the latter, but could not at all warm towards Buchanan. But they had to grant that there were a great many reasons in favor of his nomination and that nothing valid could be alleged against it; and it was a distinguished politician of the south who convinced them that the reasons for his nomination were not only weighty but of irresistible force.

S. L. M. Barlow of New York, who was, at the time, in Cincinnati and worked actively for Buchanan, ascribes to Slidell the merit of the fact that Buchanan's nomination was carried, and gives it to be understood that the Louisiana politician who was afterwards destined to acquire a short-lived celebrity in Europe, was determined solely by personal friendship and by the estimation in which he held the statesmanship of the candidate<sup>2</sup> Slidell may, indeed,

<sup>1</sup> See his letter of the 11th of December, 1852, to Pierce. Curtis, *Life of James Buchanan*. II, pp. 72, 73.

<sup>2</sup> See his report, *Ib.*, pp. 170, 173.

have owed Buchanan great gratitude, but the scales were turned by an argument of a very different kind, and that argument was brought forward by another man. Barlow mentions only incidentally that Virginia was for Buchanan from the first, and yet that was of controlling importance, for the Virginia delegation was inspired by Henry A. Wise, and, with Wise, that Buchanan was a Pennsylvanian, was decisive. Pennsylvania had 28 electoral votes; a Pennsylvanian had never yet been president; Buchanan had, for years, been the most distinguished and most popular politician of the state; he had repeatedly been a candidate before, and now again the Democratic state convention had made him its standard bearer. If the hopes and expectations of the Democrats of the state were disappointed again, it was very doubtful whether the party could retain the victory in the state. It had become a species of political axiom that no president could be elected without the vote of Pennsylvania, and this might very easily turn out to be true now. This it was that moved the southern opposition to yield, and although Buchanan's nomination was unquestionably the work of the north and not of the south, it became possible only by the fact that the south, led by the Tennessee delegation, gave up its resistance. Seward may have done most to organize Buchanan's following, but the victory was decided by Wise, inasmuch as he overcame the antipathy of the south, and this he did by the simple argument: Without Pennsylvania, we are lost!<sup>1</sup>

<sup>1</sup> See the *N. Y. Tribune* of the 14th of July, 1860, which rightly says: "Upon this subject Mr. Wise speaks with authority." In a speech which he delivered in Richmond on the 13th of June he called Buchanan's administration the safest, soundest, most sanitary and conservative movement which could have been made in reference to the condition of the country," and then he adds: "See Pennsylvania! alone of all the middle and north eastern states firm for democracy, she alone of the northern and non-slaveholding

Before the convention proceeded to the nomination of a candidate, it had to settle a question which could not but give a clue to the relative strength of the friends of Douglas and of Buchanan. The Hards as well as the Softs had sent a delegation from New York. In the committee on credentials, a long and excited discussion took place as to which of the delegations was entitled to cast the vote of the state. The majority finally resolved that the Softs who were for Douglas were the "regular" representatives of the party, but that the Hards, too, should receive consideration, as "organized bodies," and it proposed to concede to the former, 44 delegates with 22 votes, and the latter 26 delegates with 13 votes. The minority was also in favor of a compromise, but it claimed that the Hards who were for Buchanan as well as the Softs were regular representatives of the party, and hence, demanded for each delegation 35 representatives with 17 votes; the remaining vote was to go alternately to the two delegations. The convention by a vote of 137 against 117 adopted the motion of the minority.

This established the fact that Buchanan was the strongest candidate, but it by no means proved that the majority necessary for a nomination could be obtained for him. On the first ballot, he received 135½ votes, Pierce 122, Douglas 33 and Cass 5. Pierce now gradually lost, while Douglas gained until, at last, he received 124 votes. He was certainly, from the first, the real "strong man" of the

states of largest federal strength and size remains true and reliable, again she offered her son, who had been thrice sacrificed by non-democratic states. Was he to be again defeated—she again to be rejected? Ah! we might again have nominated without Pennsylvania: but could we have elected without her united voice of twenty-eight electoral votes?—without the only certain first class state left to democracy and the south in the north? It was not safe to reject Pennsylvania a fourth time."

opposition, but after the south had given Pierce up, it only wanted to use Douglas to frighten Buchanan's adherents out of the field, and finally, as had happened four years before, to allow a "dark horse" to carry off the prize. Douglas had telegraphed, on the 3rd of June, that his friends might drop him at any moment, and Richardson finally withdrew his name. On the 6th of June, Tennessee gave the south the signal for wheeling about, and Buchanan was nominated on the 17th ballot. Breckenridge was nominated as candidate for the vice-presidency, in order, by an appeal to local patriotism, to obtain the victory over the Know Nothings, in doubtful Kentucky.

The south had accommodated itself to accepting the candidate of the north, although the centre of gravity of the Democratic party lay, more than ever before, in the south. The radical slaveryocracy had thus, in a certain sense, received a set-back, but to attach much importance to it, as was done by a part of the northern press, was wholly unwarranted, since the victory of the north was entirely fruitless. The northern candidate had been nominated on the southern platform, and he hastened to assure the world that his individuality was completely sunk and had disappeared in that platform,<sup>1</sup> while he left it as uncertain as did the platform itself, what he thought of the rights of the territorial population, in respect to slavery, during the continuance of the territorial condition.<sup>2</sup> But in the

<sup>1</sup> "I have been placed upon a platform of which I most heartily approve, and that can speak for me. Being the representative of the great Democratic party and not simply James Buchanan, I must square my conduct to the platform of that party, and insert no new plank nor take one from it." *Congr. Globe*, 1st Sess., 34th Congt., App. p. 954.

<sup>2</sup> See his letter of acceptance in the *Washington Union* of June 20 1856. But in an address to his friends and neighbors in Wheatland,

book in which, ten years later, he endeavored to justify his administration, he condemned the repeal of the Missouri compromise, contended that it had not been repealed by the compromise of 1850, and declared that by the latter, the south had assumed the offensive<sup>1</sup>—three allegations in direct and bold contradiction with the declarations of the Cincinnati platform. This is characteristic of the man, but it should surprise no one. James Buchanan as president did what was to be expected from him after his entire previous career.<sup>2</sup>

he says: "This (the Cincinnati platform) does no more than adopt the doctrine which is the very root of all our institutions, and recognize the right of a majority of the people of a territory, when about to enter the Union as a state (!), to decide for themselves whether domestic slavery shall or shall not exist among them." Curtis, *Life of James Buchanan*, II., p. 175.

"... the Missouri compromise, being in the nature of a solemn compact between conflicting parties, whose object was to ward off great dangers from the Union, ought never to have been repealed by congress

"It is impossible to conceive how it could be inferred that the compromise of 1850, on the question of slavery in the territories, would be inconsistent with the long previous Missouri compromise of 1820, because each applied to distinct and separate portions of our territorial domain

"In sustaining the repeal of the Missouri compromise, however, the senators and representatives of the southern states become the aggressors themselves, and thereby placed the country in an alarming and dangerous condition." Mr. Buchanan's *Administration on the Eve of the Rebellion*, pp. 26, 27, 28.

Now on the contrary, he said: "The recent legislation of congress respecting domestic slavery, derived as it has been from the original and pure fountain of legitimate political power—the will of the majority—promises ere long to allay the dangerous excitement. This legislation is founded upon principles as ancient as free government itself." Congr. Globe, 1st Sess., 34th Congr., App., p. 687.

<sup>2</sup>This was from the first the judgment of the American people and will always remain the judgment of history—a judgment which Curtis's two partly volumes have been as little able to shake, as Buchanan's own defence of himself. Curtis's work, contains, besides a large



What the Republican convention would do, was looked forward to with great suspense. A convention of the Know Nothings or North Americans, as they now called themselves, who had left the Philadelphia convention, held in New York a few days before, took the form of an introduction or prelude to the Republican convention. Consultations were carried on zealously between the North Americans and the Republicans, and the *New York Tribune* was able to announce with satisfaction, on the 14th of June, that no material difference of opinion as to the principles on which the electoral campaign should be carried on, prevailed. This was emphatically confirmed, on the 16th of June, by the withdrawal of the entire New Jersey delegation, on account of the too aggressive attitude of the convention on the slavery question. The secessionists nominated the most celebrated citizen of New Jersey, R. F. Stockton, as their presidential candidate—a procedure which, considering their small number, had something farical in it. The Republicans, however, must have greeted the secession of the conservatives with joy, for it greatly facilitated their fusion with the liberal North Americans. The latter made advances to the Republicans, in so far as they did not proceed to a formal nomination, but only took a ballot to determine their wishes. Banks was in this manner, so to say, designated as a candidate for the presidency, and W. F. Johnson of Pennsylvania, for the vice presidency. The convention resolved to communicate officially this result to the Republican convention which met, on the 17th of June, in Philadelphia.

If we wish to understand and judge the history of this convention aright, it must be steadily kept in view, that it was not the representatives of a great national party who

amount of entirely worthless padding some valuable material which, however proves the very opposite to what the author wished to prove.

came together in the old Quaker City, to proclaim anew, in a somewhat different form, its long recognized and established principles and to chose an official head, but that what occupied its thought was to really effect the formation of a great national party which had been already begun. The task was not an easy one, and it was by no means certain that it could be happily performed. We have already seen how, in some states, the fusion of the elements out of which the new party had to be formed, was hindered and made more difficult by the special interests of the different groups, and particularly of their leaders. These special interests still continued, and it was a question, whether devotion to the common cause would be great enough to overcome the difficulties growing out of them. That men were ready to sacrifice their own party organization and their own party name, they had certainly demonstrated, by sending representatives to the convention. But this did not imply that the people who, as Free-Soil Democrats, Liberal Whigs or Know Nothings had possessed a certain political position, would now allow themselves to be forced into an inferior one without protest. And yet this, in many instances was simply unavoidable. The larger the circle to which one belongs, the harder it is to play an important part in it, and, besides there had to be shades even in the new party which could not possibly all have the same influence; presumably, at least at first, these shades would result more or less from the political antecedents of the different groups which were its constituent elements. If, from the beginning, all had been of one mind as to the principal question, the personal ambitions of the leaders of all grades would have been less to be feared. But so far as anything could yet be said, the only point on which all were agreed was that the overreaching of the slavery must be opposed, yet

how this was to be done, and whether and to what extent positions already lost should be won back, were still more or less open questions. In addition to all this, there was the fact, that all were by no means willing, for the sake of the principal question, to surrender without reserve aims hitherto pursued and with respect to which it was absolutely impossible to come to an understanding. This was the rock on the sailing around which depended the fate of the Republican party and the decision of the question, whether the irrepressible conflict between the north and the south would now come to an end in terror or whether the country was on the eve of a new era of terror without end.

If the establishment of the programme in respect to the principal question, was effected without any great difficulty, it was owing chiefly to the fact, that the last monstrous manifestations of the slavocratic spirit and the new concessions of the Democratic party to the southern radicals had forced even upon the more cautious and the more conservative, the conviction that half-way measures and gentleness were the most perverse of policies. Nothing was said of the restoration of the Missouri compromise, and the Fugitive Slave Law was not expressly mentioned in the platform.<sup>1</sup> It could not, however, be accused of vagueness or ambiguity, by the most critical opponent. The party not only declared against certain definite acts of encroachment of the slavocracy, but it broke with the policy hitherto followed in the slavery question, without however wishing to have recourse to aggressive, much less revolutionary measures. It claimed to be thoroughly conservative, in the sense that it returned to the original political and legal basis of American na-

<sup>1</sup> It is printed in full in the Congr. Globe, 1st Sess., 34th Congr. — App., p. 1181.

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<sup>1</sup> It is printed in full in the Congr. Globe, 1st Sess., 54th Congr., App., p. 1181.

tionality, from which the federal government had allowed itself to be forced more and more, by the slavery. In its opinion, the principles of the Declaration of Independence were incorporated in the constitution, and hence the latter had to be read in the light of the former; the preservation of the republican institutions of the country had this latter as its condition precedent. The announcement that the constitution, the rights of the states and the Union should and must be preserved followed only after this defining of the principles of the party. Hence the party declared its resolution not to allow itself to be forced from these principles by threats of the disruption of the Union, but to apply them in the Union as the only absolutely decisive principles. The constitutional rights of the slave states should remain inviolable, but they had something more to do than to discover how far their constitutional rights went, and must abide by the decision on them given in a constitutional way, whether it pleased them or not, and whether it was right or not. Whether only the convention was fully aware that this was implied in its words, or whether the entire party would enter the lists in defence of this declaration of its representatives, when there was question of fulfilling it, the future alone could tell. The commentary on the few simple words of this resolution was written in blood from Fort Sumpter to Appomattox.

We need not enter more in detail into the practical consequences drawn from the principle laid down in the first resolution. It must suffice to give the chief ones very briefly. The fourth resolution declared that, so long as the present constitution remained in force, neither congress, nor a territorial legislature nor any one had the right to grant a legal existence to slavery in any territory; and the fifth declared it to be both the right and the duty



of congress to prohibit the twin remnants of barbarism, polygamy and slavery in all the territories. The platform enumerated all the constitutional principles which had been trampled under foot in Kansas, threatened all responsible for the Kansas abominations with the punishment they deserved, and finally demanded the admission of Kansas as a state under the Topeka constitution. Indirectly connected with the slavery question, there remained only a severe condemnation of the Ostend Manifesto.<sup>1</sup> There were two other resolutions; the first advocated the construction of a railroad to the Pacific Ocean, and the second gave expression, in a conditional manner, to the constitutional right of congress to undertake so-called internal improvements. Hence the party did not refuse to take a position on other questions; but although these last two resolutions were not only of great practical importance, but also of importance so far as principle was concerned, they were, compared with the rest of the platform, so insignificant, that we are warranted in saying that its exclusive burthen was the slavery question.

This was in harmony with the invitation to the convention which, as the introduction to the platform also said, was issued to all, without distinction of previous party affiliations, who wished to break the yoke of slavery, and hence here there was complete agreement. But some drew from this one consequence exclusively, a consequence against which others violently rebelled, and the difference threatened to become a dangerous one. The demand was made that the exclusiveness of the slavery question as

<sup>1</sup> "That the highwayman's plea, that might makes right, embodied in the Ostend Manifesto, was in every respect unworthy of American citizenship, and would bring shame and dishonor upon any government, and that they gave it their sanction."

the basis of the party organization should be demonstrated not only by not making any other question a component part of the party programme, in the full sense of the word, but also by formally and emphatically repudiating the aims which had constituted the party programme of one of the principal groups who were now to join with their congeners in feeling on the slavery question, in the formation of the Republican party.

A convention called by the Free-Soil press of Illinois to meet at Decatur, and intended to pave the way for, the formation of a new party, had in opposition to the Know Nothings, demanded the maintenance of the naturalization laws unaltered. The next state convention of Illinois held at Bloomington, had, in the face of the resistance of the "old line" Whigs, approved that demand. It was the delegates chosen by this convention to the national convention in Philadelphia who first, in accord with the delegation from Indiana,<sup>1</sup> demanded the adoption of the so-called Illinois resolution in the platform. They made this demand, because they rightly considered that, in the north-western states, the success of the Republican party depended, in great measure, on the Germans, and that the Germans could not be won over unless it surrendered, in an undoubted manner, the nativist tendencies which many of its most distinguished leaders with a numerous follow-

<sup>1</sup> The consideration was that Illinois was to work strenuously for the election of Henry Lane of Indiana, as president of the convention. But the delegates from Indiana would unquestionably have strongly favored this motion, under any circumstances, for in that state it had long been recognized that the support of the Germans was indispensable. On this subject, see two letters of Grimes to Chase of July 16, 1856, and of March 28, 1856 in *Salter's Life of James W. Grimes* pp. 76, 78-79. Among the most influential members of the Illinois delegation was George Schneider, the editor of the *Illinois Staatszeitung*, who, in the honorable position of a delegate at large, played a part as a representative of the German element.

ing had hitherto cherished. The Free-Soil Democrats and the Seward Whigs agreed to the demand, not only from reasons of expediency, but also because it was in harmony with their principles. The former Know Nothings, on the other hand, through their spokesman, Thaddens Stevens of Pennsylvania, opposed it with their utmost energy. They did not think of asking the Republican party to give the second place in its attention to the affairs of Nativism, but they did not wish it to put itself in express opposition to Know-Nothingism. Stevens did not demand freedom of conviction and of action in the Know Nothing question, but only silence, lest the Know Nothings should be mortally offended. In Pennsylvania he said, the "American" party and the Free-Soil party were almost identical, and hence the good cause would be greatly injured by such a direct insult to the nativists, while nothing would be forgiven; and all the opponents of the present administration might be united, if that issue were simply ignored.

The calculation was wrong, although it was highly probable that the resolution would cost the Republican presidential candidate a large number of Know-Nothing votes. These votes were more than compensated for, by the German votes which were won by it. Whether Buchanan could be defeated in Pennsylvania, if all offence of the Know Nothings was avoided, was so extremely doubtful, that this consideration was counterbalanced by the other, that even the vote of New York might possibly depend on the position taken by the Germans. If the convention wished to base its decision on considerations of this nature, regard for the north-west had to be decisive with it. But if it rightly understood its task, it was bound to bear in mind, that victory, in the next presidential election, should not be an end in itself, but only a means to an end. If the party pledged itself to princi-

ples which, under the prevailing circumstances, were the conditions precedent to its successful assumption of the struggle against the slavery, the final victory of its cause would be only postponed by a defeat in the presidential election; if on the other hand, it allowed itself to be determined by grounds of momentary expediency, it would be throwing away its future, even if it now landed its candidate in the White House. But to ignore the Know-Nothing question would have been a grave mistake in matter of principle, for, in the first place, a successful struggle against the slavery made demands on the moral energy of the party which it would never be able to meet, if, from the beginning, Know-Nothingism were the skeleton in the closet of the Republican party; and in the second place, the tendencies of the Know Nothings were in conflict with the spirit in which the party declared it desired to carry on the struggle against the slavery, because that spirit was the true spirit of the Declaration of Independence and of the constitution. The Know Nothings were still an important party, and had a presidential candidate of their own in the field. This was a fact which should not and could not be ignored. The Republican party's own position could be perfectly defined only when it had taken a position on the principles and aims of other parties. To be silent on the principles of the Know Nothings was, therefore, not really to ignore these issues, but to confess that it would not or could not take any position on them. But if it refused to draw from the spirit which it conjured up against the slavery the proper practical consequences against the Know Nothings, it was not a party of principles; and only a party of principles could conquer in the gigantic struggle with the slavery. Only those nativists who could honestly sacrifice their nativism could become genuine

Republicans. Hence, leaving the Germans entirely out of consideration, the adoption of the Illinois resolution had to be insisted on, even at the risk of Stevens and his associates leaving the convention. They did not do so, but withdrew the motion for the striking out of the second sentence of the introductory resolution,<sup>1</sup> and thus practical proof was furnished that the time for the formation of a national party of principles had come.

The debates on these questions were all the more excited, because they were intimately connected with the question of candidates. The adoption of the Illinois resolution practically decided who should receive the nomination.

In the Republican ranks, there was no lack of men who had, for a long time, enjoyed a national reputation. If one of these were to be made the standard bearer of the party, Seward and Chase had first to be considered, for both, independently of their position on the slavery question and of their personal importance, were among the most distinguished statesmen of the Union, and that they were the chief political magnates of New York and Ohio, gave them special weight. Both were, therefore, seriously spoken of. Seward's friends, however, soon became convinced that his time had not yet come. There were deep-rooted prejudices in the west against him for the very reason that he was a New York politician,<sup>2</sup> he was very

<sup>1</sup> It read: "Believing that the spirit of our institutions, as well as the constitution of our country, guarantees liberty of conscience and equality of rights among citizens, we oppose all legislation impairing their security."

<sup>2</sup> Grimes writes on the 8th of April, 1855, to Chase: "I think there is too much asperity of feeling throughout the country to justify us in placing Mr. Seward forward as the Republican candidate, and, to confess the truth, I must say that I have horror of New York politicians." *Notes*, Life of James W. Grimes, p. 60. See also his letter of the 25th of March to the same. *Ibid.* p. 50.

unpopular among the nativists, and above all he had been looked upon for years as the leader of the left wing of the anti-slavery party, and now that the party was still in process of formation, to make him its official head, would have been a great check to propagandism among the more moderate elements of the people. Such objections could not be raised to Chase's candidacy, and there had been a prospect for a much longer time and a much greater prospect that the choice would fall on him.<sup>1</sup> He himself doubted it with good reason.<sup>2</sup> The Whigs, however, could not forget that he had been originally a Democrat, and spite of the respect in which he was held, he was never a really popular man. He was not able to awaken the enthusiasm of the masses, for neither his mode of thought or of action nor his history could stir their feelings or their fancy. But in this struggle, the excitement of the feelings and the fancy was of great importance, and as human nature is constituted, the magic which a man's personality may awaken is often necessary to rouse enthusiasm for ideas. Hence Chase, too, was finally dropped, not so much because many were opposed to him, as because few were for him.

John McLean was a man of seventy-one years of age.

<sup>1</sup> Charles A. Dana writes on the 14th of July, to Pike: "He (Greeley) says Chase will be beaten if he is nominated. It seems to me he is mistaken. However, we'll see. I take it Chase is now pretty sure of the nomination." Pike, *First Blows of the Civil War*, p. 297.

<sup>2</sup> On the 20th of June, 1855, he writes to Pike: "When you intimated in our conversations at New York that I might possibly be the anti-Nebraska candidate for president in 1856, it seemed to me next to impossible. It still seems to me impossible; but since then the evidences have convinced me that there is a strong sentiment that way in the west, and a respectable backing of it in the east. It is not likely that anything will come out of it, and I certainly shall give myself no uneasiness on account of it." *Ib.*, p. 296.



The beginning of his political career dated back to the outbreak of the second war with England, and closed with the administration of the younger Adams. To the present generation it was all the more a bit of dead history, as he had never played a very prominent role in party politics, although he had been a member of the cabinet for many years. The office of post-master general which he had filled under Monroe and John Adams, did not compel him to do so, and the secretaryship of war and of the navy, which Jackson tendered him, he had declined. The appointment as Judge of the Supreme Court of the United States suited the trained jurist who had already been a member of the Supreme Court of Ohio for six years, better. The aged man still discharged the duties of the responsible and difficult office which he had filled since 1829, with entire intellectual freshness. Hence his name was well known to the people, but the people connected no definite political idea with it, for he had withdrawn from political life for nearly a generation. And the rudder was to be placed in the hands of this gray-haired man, now that the political sea began to roll up waves mountain high, and that the waters from all quarters rushed together in wild eddies. If the "old fogies" of all parties had chosen such a leader, if not at any cost, at least at great and even at too great a cost, the choice might have been understood. But what was the party of struggle, the militant party, to do with such a chief?

If it had been recognized, that the wrath of the storm would be let entirely loose by the fact that it was dared to defy it, such a proposition would scarcely have been made the party. There was, indeed, a suspicion that this might be the consequence of the bold venture, and to it doubtless the surprising choice is to some extent to be referred. The candidate was to serve as a drag-chain to the party.

Who could doubt that the constitutional rights of the slave states would remain inviolate, when the party wished to make a man president who had grown gray as a judge of the Supreme Court of the United States? A stronger guaranty could certainly not be given, that the more anxious and more conservative opponents of slavery, who had to be won over, would have nothing to fear from a Republican victory; and still that guaranty was absolutely worthless, unless McLean declared the platform a constitutional abomination and still was elected by the Republicans. The slavocracy saw in the platform the proclamation of a life-and-death struggle, and it must have been utterly indifferent to it whether the mortal wounds dealt it were dealt by a snowy-haired judge with judicial coolness and objectivity, or by some one else and the stroke was accompanied by other than judicial language. But what could have been expected of a party whose first care, at the beginning of such a struggle, was to convince friends and foes, that its weapons were by no means as sharp and dangerous as they supposed? Among the lukewarm and the half-resolute, indeed, recruiting of the party might have somewhat greater success on this account, but its future depended upon those who were so penetrated both with the moral and constitutional justification and the political correctness and necessity of their programme, that no possible consequences could deter them from carrying it out. Although the entire party were in holy earnest in the assurance that they did not wish to lay a finger on the constitutional rights of the south, they had to choose a leader who entered on their plan with a bellicose spirit, for they had to do with a political problem on the solution of which the national existence depended, and not with the decision of a civil law suit in accordance with definite legal provisions.

Whether McLean, if he had been nominated and elected, would have conceived his task in this last sense or would have proved a statesman equal to the situation, is a question to which not only no answer can be found but which is entirely irrelevant, so far as the understanding of the state of affairs and the correct appreciation of the position of the two parties in the Philadelphia convention, are concerned. His friends were determined to make him a candidate by motives which show that they had totally mistaken the nature of the struggle to carry on which the party had been formed. His opponents felt this more or less clearly, but even they did not account to themselves fully for it, for they did not dream how the work they had begun would end. They gave their own candidate the preference, chiefly because they believed that he, if it became necessary, would act more resolutely and energetically, but to the extent that they not only preferred him but opposed McLean, they were determined by another reason. His candidacy was advocated mainly by those who had so violently opposed the Illinois resolution, and hence, even those friends of the resolution who at first were by no means disinclined to his nomination, believed that it would have to be looked at as a triumph of nativist tendencies which they should not countenance. He would, indeed, have been defeated under any circumstances, but the adoption of the introductory resolution in the form proposed by the committee did not allow it to come to a real struggle between him and his rival. On the first ballot John C. Fremont received 359 votes, against 196 for McLean, 2 for Sumner, 1 for Seward and 1 for Banks.

Among the living statesmen of the Union, there were scarcely a dozen with whose name the masses of the American people—at least in the free states in which the newspapers made their way even into the dwellings of the

misses—were so familiar and connected so concrete an idea, as with that of John C. Fremont, although in the enumeration of political magnates, he would scarcely have entered any one's mind. He was not yet forty-four years old, but the beginning of his celebrity, not only in his own country but in the educated circles of Europe, dated back to 1842. His bold and successful voyages of research in the Rocky Mountains and beyond them, insured him a distinguished place among the contemporary travellers of reputation, and were of eminent importance in the connection of the east and west of North America, from the point of view of civilization. By the role he played on the occasion of one of those journeys in the acquisition of California, the laurels of the hero were added, in the eyes of the American people so susceptible to the charm of bold deeds, to the fame of the discoverer distinguished by European orders and titles. The condemnation of a court martial because he had come in conflict with his military superiors, his proud declination of the tender made him by the president of re-admission to the service, and his election as a United States senator from California, had added to all this something of the halo of merit rewarded with ingratitude which forces deserved recognition spite of all petty enemies. And the man whom all this did not interest in his person, Fremont had furnished with a theme of conversation, inasmuch as he had secured the beautiful and intelligent daughter of the aged senator Benton as a wife, by an elopement. But whether his character and intellectual endowments were such that he might develop into a statesman, no one knew, for it could not be inferred from the California episode in his eventful life, how he would demean himself as the head of a great country at a highly critical period. Spite of the direct and important part he had had in that noteworthy event,

he was a *homo novus* entirely, in politics, one who still had to give the first evidence of statesmanlike capacity. But on this very account, he seemed to the great majority of the party leaders to be the fittest candidate. The man who had already had a share in party life could not but be more or less unacceptable, because of his political past, to this or that group of a party in process of formation from the ruins and dissevered bits of all possible parties, and could not but have a number of competitors who would feel hurt not only personally, but as the chiefs of the groups led by them, by the preference shown him. But before the man with no political past, all could readily withdraw, for he could be considered their rival in no respect whatever, since he was called to the helm precisely because he had a claim on no one and no one on him for political recognition. But if the new party were to be given a new leader, no one could be found even approximately so well fitted to act in that capacity as John C. Fremont.

Fremont had achieved his reputation, not by eloquence but by action; by his deeds he had deserved well of his country, and they approximated closely enough to the achievements of an ambitious adventurer to surround his whole life with a romantic atmosphere which could not but have a powerful attraction for educated and uneducated alike. Here was a man for whom an enthusiasm unceremonious perhaps but really genuine, could be awakened, which would not only lead many to the ballot-box who otherwise would have remained away from it, or even voted for the opposing candidate, but which would help propagate the ideas and principles represented by the much-admired pathfinder of the Rocky Mountains. And although the hopes entertained of him might be bitterly disappointed, they were not wanting in a positive basis so far as such a

basis could be found in a man who had not yet tried and tested himself, in wrestling with the problems of political life. In wrestling with the problems in which he had tested himself he had in a high degree shown himself of penetrating insight and calm self reliance, quick and resolute to take the initiative, a man of bold courage and tenacious perseverance. These were all qualities which were requisite, in an eminent degree, for successfully laboring at the task which the Republicans wished to confide to him. Whether he would stand the test, in this very different, so much higher and entirely strange sphere, was, indeed, an open question. Still less could any one guarantee that the other qualities would be found in him which were at least equally important: a comprehensive vision which could distinguish the essential from the non-essential, the ability to see the two sides of a question, justice to opponents, foresight and discretion, patient dealing and entire unselfish devotion to the great cause. It was thought that all these would be found in him, and it was natural it was so thought. The person who condemns the convention, because subsequent events showed men and circumstances in a very different light from that in which they were seen at the time, only proves that he is wanting in the historical sense; and the man who in our day can claim that the nomination of McLean or even of some obscure magnate, such as the candidate for the vice-presidency, Dayton of New Jersey, would have been the right one, has not had his eyes opened to the understanding of the "irrepressible conflict," although, like E. B. Washburne,<sup>1</sup> he may have played an honorable part in

<sup>1</sup> See in the *Chicago Inter-Ocean* of the 13th of January, 1884, an article on McLean. He goes so far as to say: "All chances for the election of a Republican president in 1856, were deliberately thrown away in the face of light and knowledge." The place referred to in



fighting it out. Even to-day, no member of the convention need blush at the storm of applause which swept through the hall when Fremont's nomination was announced.<sup>1</sup>

People were now sufficiently insured against the danger of seeing the young blood of the Republican party poisoned by the introduction into it of Know-Nothing lymph, no longer to reject the outstretched hand of the liberal nativists who had not yet given up their own party organization. Littlejohn of New York, had moved the reference of the letter with the overtures of the Know Nothing convention of New York to a committee, but on Giddings' motion it had been laid on the table. Giddings now, yielding to the wishes of his friends, moved the reconsideration of that resolution, and after several speakers had spoken on the question, the reference was resolved on.

the text reads: "In the state of feeling then existing in the country, Judge McLean, or any Republican statesman of national reputation, could have easily been elected. The first time I saw Mr. Dayton, after the defeat of the Fremont and Dayton ticket, I told him what I believed then, and what I believe now, that if the ticket had been reversed he would have been elected president of the United States."

<sup>1</sup> Judge Emmet, the provisional chairman of the Philadelphia convention, said in a speech which he delivered in New York, on the 25th of June: "The rush that was made for the name Fremont when his name was first whispered was inexplicable. It is still, in a measure, a mystery to me, because I am unable to fathom the causes which should induce such men as were in that convention to take up, apparently without consideration a man who has no political antecedents whatever—as John C. Fremont may be said not to have any. But it was because he had no political antecedents; because he was the representative of Young America; because he was the type and embodiment of everything honest, manly, self-sustaining, because he was individual in his character, ready for any emergency, self-sacrificing for the good of those who are connected with him in fortune and misfortune. It was because those things were fresh in the minds of the delegates that they said this is the crisis in which such a man as John C. Fremont is better calculated than any of your old politicians to lead us on to victory." *The N. Y. Tribune*, June 26, 1856.

There was no reason subsequently to regret this, for although the North American convention was very indignant because of the cool reception it at first met with, it dropped Banks and made Fremont its candidate likewise. Johnston's candidacy for the vice-presidency it maintained, but in September it withdrew his name also.<sup>1</sup>

The Republicans had, as already said, nominated William L. Dayton as their candidate for the vice-presidency. An informal ballot had preceded the nomination, and on that ballot Abraham Lincoln of Illinois had received the next largest number of votes. When the delegation of Pennsylvania proposed him, Judge Spaulding of Ohio, asked, half in jest: "Can Mr. Lincoln fight?" Then, as the *New York Times* of June 20, 1856, relates, Lincoln's friend, W. B. Archer of Illinois, leaped "at least eighteen inches from the floor," wildly beat the air with his long arms and cried out in a stentorian voice: "Yes, sir; he is a son of Kentucky." The answer of the convention was loud laughter and prolonged applause. Who could have dreamt of what immense world-historic importance it would yet become, whether this son of a slave state, still almost unknown outside of Illinois, would fulfil the words of his friend when the wrestling of the Republican party with the slavocracy had led to battle.

<sup>1</sup> See his letter of resignation in the *N. Y. Tribune* of September 16th, 1856.

## CHAPTER VIII.

## THE KANSAS QUESTION IN CONGRESS.

Congress had been in session over six months, and a very great deal had been said about Kansas, but leaving the sending of the investigating committee by the house of representatives thither, out of consideration, it may be said that nothing had been done. Now the determination, formulation and proclamation of the several party programmes by the several national conventions had taken place. Everyone seemed to have waited for this, for now everyone bestirred himself both in the house of representatives and in the senate to proceed from words to deeds. As to what he wanted, everyone was in the main clear, from the very beginning. All the difficulties grew out of the How, and they had grown steadily, for all parties, in consequence of the course of events in the territory. But all had to go seriously to work now, if for no other reason, because it would be of the highest importance for the electoral campaign and might easily become decisive, how the solution of the problem was tried by the different parties. As there were three candidates in the field, it was very possible that the popular vote should result in an election by a plurality only, and that the scales might be turned by a very small number of voters. But this small number might perhaps be attracted or repelled by the fact, that a party was somewhat more or less disposed to make advances to its opponents. It might, therefore, happen that victory or defeat in the electoral battle would

depend less on the result of the struggle in congress, than on how it was carried on. How far the tactics of parties, at every move, would be determined by this consideration, cannot, of course, be said, but that it had great influence, there cannot be the slightest doubt. If this be not kept steadily in view, a totally wrong opinion will be reached, especially as regards the game played by the Democrats.

The first positive proposition was made, in the senate, by Clayton, immediately before the meeting of the Republican convention. He had already, in the earlier stages of the parliamentary struggle, shown that he had the courage to think otherwise than the rest of the representatives of the south, and to go his own way. The bill which he now proposed, had its origin entirely with himself. But although he did not act as the authorized organ of a party, he might, in a certain sense, be looked upon as the spokesman of the Fillmoreites. The latter did not now set up any programme of their own, in congress, in respect to the Kansas question, but Clayton's propositions were conceived in their spirit. The ruthless brutality with which the tools of the slavery had acted, had revolted and terrified them in an equal degree. Their moral indignation demanded a certain satisfaction for the violated honor and insulted conscience of the nation, and their political conviction demanded the restoration of the much-beloved peace, which they wished to reach by satisfying the south. That the slavery was not to be left everything which it had appropriated to itself, was to serve as compensation to the north, that that same slavery had again advanced a good piece farther—such is what the programme of narrow-minded conservatism amounted to, and such was the fundamental idea of Clayton's bill. The Kansas code was to be purified of its most monstrous laws, but on the other hand, Clayton

demanding of the sense of equity and justice of the north, that it should leave all other laws which, at the time, legalized and protected slavery in the territory in force, until such time as a new and honest electoral campaign should decide which party had the majority.<sup>1</sup>

Whether a majority could now, or indeed ever again, be found in the house of representatives, in favor of such a trade, after the fashion of the old compromises, was to say the least, very questionable. But if it were not accepted, the only result of Clayton's mediating proposition would be, that a sharp weapon would have been pressed into the hands of the enemy. His motion was the complete surrender of the principle which the Douglas Democrats and the southern radicals had agreed in calling the basis of the Kansas-Nebraska bill. If the laws referred to were to be repealed, because, in consequence of the doings at the elections, the legality of the territorial legislature was to be denied, it followed that everything it had done was *ipso facto* null and void. But if congress were, with Clayton, to assign their enormity as the reason for the repeal of those laws, it would thereby, renounce the principle of non-intervention. And if congress could abrogate territorial laws for this reason, it might abrogate them for any other reason which seemed sufficient to it; and not only with respect to slavery, but with respect to every other matter, the place of popular sovereignty would then be taken by the principle that the legal force of territorial laws would depend on the tacit sanction of congress, as a condition.

It no longer required any great penetration to recognize how poor a service the creatures of the Border Ruffians had rendered to the cause of the slaveocracy, when, in the

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., p. 1408.

arrogance of victory, they thought they might cast the insane provocation of these scandalous laws into the face of the people. Could the Democrats dare to defend that horrible abortion of squatter sovereignty? But how was the offensive stumbling-block to be removed out of the way, without its grinding the principle of non-intervention to powder? Some of the representatives of the south, seemed to be still of the opinion that the dilemma could be escaped by acting as if it did not exist. Geyer of Missouri, on the 24th of June, introduced a bill into the senate which entirely ignored this question. It reserved it to congress to decide when and how Kansas should be admitted into the Union as a state, but provided for the election of a new legislature after the division of the territory into election districts, on the basis of a new census, had been changed so as to correspond with actual circumstances. Geyer, therefore, believed that he should take the revolted public opinion of the north so far into consideration as to make offers to it, which it should look upon as a guaranty that the era of overt violence in Kansas had come to an end. But if the public opinion of the north was really so excited that such a concession had become a necessity, it was self-evident that it could not be satisfied with this. The moment all concession was not refused on principle, these bloody and terrible laws would have to be sacrificed. But the admission that the principle hitherto fought for, was to be attacked even in the least degree, was the condemnation of all that had hitherto been done; not a single position could any longer be held, unless the facts were roundly lied out of existence. Even the southern Democrats became more and more firmly convinced that it would be rash and foolish to enter on the electoral campaign with these laws as an impediment to their movements. They had, therefore, to be gotten rid



of in such a manner that the great crowd might be made to believe that the principle of non-intervention had remained entirely intact. This was certainly no easy task, but the magician who had so well elaborated the formula of the Kansas-Nebraska bill might be trusted with performing that piece of legerdemain likewise.

On the 25th of June, Toombs introduced in the senate a new bill, which, on Weller's motion, was referred to the territorial committee, together with all the earlier bills and proposed amendments. In the name of that committee, Douglas, on the 30th of June, laid the Toombs' bill in amended form, before the senate, in lieu of his original bill. The latter was a piece of work which bore as strong testimony to the genius of Douglas, so far as its fertility in trickery and artifice was concerned, as the Kansas-Nebraska bill itself.

On the 17th of March, the same committee had proposed to allow Kansas to adopt a state constitution, when it had population (94,000) large enough to entitle it to the election of a representative. The committee now moved the taking of a census, to be followed immediately by elections to a constitutional convention, the drafting<sup>1</sup> of a state constitution and admission into the Union. Why was there now so much haste, whereas fifteen weeks before, the Kansas troubles afforded no occasion to take time by the forelock, and to hasten, in the least, the transformation of the territory into a state? Were people now convinced that, wherever the slavery and the free north could come into competition with one another for a territory, non-intervention and popular sovereignty were only other names for legalized anarchy on principle? Douglas had most emphatically denied that his principle should be held

<sup>1</sup>It will hereafter be seen why I say here only the drafting and not also the adoption of a state constitution.

responsible for the events in Kansas, and had cast all the blame on the fanatics of the north who, by falsifying the principle, had forced the honest Missourians, in righteous self-defence, to get occasionally out of the traces. Even if this were true, still the results of the experiment would have passed on the principle, the judgment: weighed in the balance and found wanting, for laws should be made for real men with their passions and convictions, and should not be based on the absurd assumption, that men will regulate their feeling, thought and action in accordance with "principles" to the liking of the legislator and which he considers it well to invent. But these were truths which Douglas could not understand, at least in what concerns this question, and which he would never have recognized as truths if he had understood them. If the reason for the surprising change of front of the territorial committee was not a juster appreciation of the principle of the Kansas-Nebraska bill, this sudden wheeling around to the position hitherto taken by the enemy, can be explained only by the fear that ultimate defeat, spite of all success hitherto, was to be anticipated, unless a decision was now brought about. Of course this was not admitted, but the provisions of the bill made the suspicion that this was the controlling motive, almost a certainty.

The commissioners to prepare the voting lists were to be appointed by the president, and all male citizens of the United States, of 21 years of age and upward, who were settled in the territory, on the 4th of July, and who had lived for three months before the election in the county in which they wished to vote, were to have the right of suffrage. At the very beginning of the debate on the bill, Cass stated that, after consultation with other gentlemen, he felt authorized to give the assurance that the commis-

sioners would not be appointed from party considerations; they would be taken impartially from the different parties and be the best men who could be found. Hale immediately replied to this, that everyone would not look upon as equitable and impartial what the president held to be such.<sup>1</sup> Even the bitterest Democrat who still possessed the least honor, in this question, could not but recognize the justice of this objection, when he recalled that Pierce had publicly declared, on the 9th of June, that the Free-Soilers of Kansas had received nothing but protection and blessings from the government.<sup>2</sup> What Pierce said, a few days later, that people would be forced to trust the president, for the very reason that he was president, was just as correct as Hale's assertion.<sup>3</sup> If Kansas were not admitted into the Union, with the Topeka constitution—which was entirely out of the question—the co-operation of the president could not be dispensed with no matter how the Kansas problem was handled. But the history of that problem so far made it simply impossible for the opposition to believe that the president would rise above the party standpoint, and play an honest game. Cass's promise was worthless in the eyes of the opposition, and they did not with Pierce, see in the fact that the president was authorized to employ the armed power of the country, according to the existing

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., p. 1519.

<sup>2</sup> According to the report of the *Washington Union* of the 10th of June, 1856, he said, in his address to the Buchanan ratification meeting, which had marched to the White House: "There will be, on your part, no appeal to unworthy passions, no inflammatory calls for a second revolution, like those which are occasionally reported as coming from men who have received nothing at the hands of their government but protection and political blessings, no declaration of resistance to the laws of the land."

<sup>3</sup> Congr. Globe, 1st Sess., 34th Congr., p. 571.

laws, to insure the conscientious execution of this law, any further guaranty. Neither the president nor his cabinet nor the Democratic leaders in congress admitted that they had the least thing to reproach themselves with, or that they had made the slightest mistake in anything. Had it not, therefore to be assumed, that in the enforcement of this law, they would go to work, in the same spirit which they had hitherto manifested? And the closer the bill was examined, the less could this be doubted, although it was to be expected, that from motives of prudence, they would try to prevent such gross excesses as the territorial officials and the Border Ruffians had hitherto been guilty of.

It would not have been impartial, but the greatest injustice, if only those were to have the right to vote, who had been settled in the territory, on the 4th of July. A large number of Free-Soilers had left Kansas, in consequence of the troubles, and the new persons who had come to settle in the territory, had, for some time, been systematically driven away from the borders, and compelled to turn back. Hence, by the establishment of the 4th of July, as a term, the slavocracy would have reaped advantage from all the violence and wrong that had hitherto been perpetrated. Weller, indeed, thought that the fact that new immigrants from the north had not been allowed to come into the territory, should not be appealed to, since colonel Sumner had driven out of it the bands from Missouri, South Carolina and Alabama. To this, Wilson replied, that the colonists from the north had not been driven back by Sumner but by those whom the colonel had expelled the territory.<sup>1</sup> It was, indeed, strange that the Missourians should have the right not to allow settlers

<sup>1</sup> Congr. Globe, 1st Sess. 34th Congr., Append., p. 774.

from the free states into the territory, because federal troops purified it from the vagrants and tramps who sojourned in it, only to commit all sorts of mischief and to trample the laws and the rights of citizens under foot.<sup>1</sup> Better arguments to refute the objections raised against this provision of the bill could not, however, be found, and Toombs and Douglas who were now sailing under the flag of the strictest equity and of a big-hearted conciliatory intentions, did not, therefore insist on its adoption unaltered. Toombs immediately gave the assurance that he would approve any proposition which would set aside the term mentioned, and Douglas himself, on the 2nd of July, introduced an amendment which pretended to do away with it. Any one who possessed the other qualifications for voting, and who produced proof that he had left the territory on account of the troubles, was to have the right to vote, if, dating from the 1st of October, he had returned with the intention of again settling permanently in the territory. But no security whatever was afforded, that the Missourians would be now really prevented from placing any difficulties in the way of those who returned. Neither was the expulsion of Buford's band a sufficient guaranty that the words "law and order," in Kansas, would not henceforth mean the very reverse of what was elsewhere understood by them. But even leaving this entirely out of consideration, it was self-evident, that, at most, an evanescent fraction of those who had been driven out of the territory or who had fled from it, would seek their fortune, in Kansas, again. A settlement in Kansas was not as easily resolved upon and begun as a removal from the right to the left side of a street. Far as the American is from being tied to the sod, he does not carry his household gods as a peddler does his wares through

<sup>1</sup> *Ib.*, p. 395.

the country, for the reason that such rapid rolling allows no moss to gather on the stone even in the United States. There was question here not of adventurers or the more mobile city population, but chiefly of farmers. Hence the Douglas amendment had no real value. It was an improvement only in the sense of the slavocracy, for on the one hand, it practically left it the advantages it had wrested to itself wholly unabridged, and, on the other, it diminished the odium which weighed upon it in consequence of the previous doings in the territory, because it would apparently practice greater equity in the future. If, in truth, the Free-Soil party or the north, was not to be overreached, a much longer interval had to be granted, and care taken that, during such interval, law and order should actually prevail in the territory, in order that the two sections might now rally and enter into peaceful competition for its possession, by settlement. Hale, therefore, moved to substitute the 4th of July, 1857, for the 4th of July, 1856, and as he was not able to carry this motion, he expressed his willingness to be satisfied with a much shorter extension of the term, but could not obtain the smallest concession. The impartiality of the majority, and the sudden awakening of the feeling of equity in them, were, therefore, only idle dissimulation. Now that the leaders of the Free-Soil party were lying in prison, under a charge of high treason, or else had fled; that a large number of immigrants, from the north, had been driven back from the borders, and a great many settlers had shaken the dust of the territory from their feet; that all the organs of the Free-Soil party but one had been destroyed and that, spite of Sumner's dragoons, the mob was to be spurred<sup>1</sup> on violently to suppress even that one;

<sup>1</sup> The *Squatter Sovereign* which the administration still assisted by its advertising, wrote: "Several parties have inquired of us, why



and lastly, now that the reins of government were still in the reliable hands of Pierce—even now the last passage at arms was to take place. In other words, the Toombs-Douglas bill wished to bring about the decision at the moment that the effects of the reign of terror had reached their culminating point, and hence its opponents naturally claimed that it was intended as the crowning of the work whose foundation had been laid in the Kansas-Nebraska bill.<sup>1</sup>

If any doubt could still have been entertained, that this charge was well founded, it would have been removed by the fact, that the elections to the constitutional convention, which had been fixed for the first Tuesday after the first Monday in November, were finally to decide the fate of Kansas. The constitution did not need to be submitted either to the population or to congress for ratification. It might be a series of mere monstrosities; if it were only Republican in form, it became by its adoption by the convention the constitution of Kansas and Kansas *ipso facto* became a state of the Union. Had Douglas become convinced from the code with which the territorial legislature had endowed this child of its special care, that here the chosen representatives of the "sovereign" people should be unhesitatingly freed from all control? The convention

the law ("") has not been put in force at Topeka, as well as at Lawrence, against abolition newspapers (the Topeka Tribune?). Topeka is no better than Lawrence, it is also demoralized, but it is not so well known abroad. If both Topeka and Lawrence were blotted out, entirely obliterated, it would be the best the thing for Kansas that could happen. The sooner the people of Topeka sound their death-knell the better: they are too corrupt and degraded to live. . . . It is silly to suppose for an instant that there can be peace in Kansas as long as one enemy of the south lives upon her soil, or one single specimen of an abolitionist treads in the sunlight of Kansas Territory." *Ib.*, p. 668.

<sup>1</sup> *Ib.*, p. 778.

was, indeed, not forbidden to submit its work to a vote of the people, but it was self-evident that it would not submit it to such a vote without an express command, if the pro-slavery party had a majority in it. Notwithstanding the excellent provisions which the bill contained, in reference to the posting up of the lists of voters, means could, of course, still be found to bring the Missourians into the field in the November elections, if it were considered absolutely necessary to do so. The vote on the constitution, on the other hand, would, in all probability, take place in the depth of winter, since the convention was to meet on the first Monday in December; but the enthusiasm of the Border Ruffians was no longer so great that they could have been again summoned for a winter campaign.

Of what avail was it, that the obnoxious laws of the territorial legislature, were set aside, in view of that determination of the time for the exhibition of the lists of voters and the silence of the bill on the ratification of the constitution? As indignant public opinion had forced the most offensive laws to remain a dead letter from the first, the meaning of that concession was limited almost entirely to this, that the habitual mendacity of the apostles of the principle of non-intervention and of popular sovereignty was made much more clearly evident than it had been before. The laws to be annulled were not, as in Clayton's bill, separately enumerated, it was only stated generally that no law should be valid which provided this thing or that (for instance the requiring of test oaths). It followed, therefore, only by way of inference, as a probability, that such laws existed, but, so far as the wording of the bill afforded any information, it might still be represented as an open question, whether congress declared any definite laws of the territorial legis-

lature to be null and void. The veil which was thrown over the disavowal of the principle of the Kansas-Nebraska bill, therefore, was so thin, that at most, the dim sight of the great crowd of Irish voters, could not penetrate it. To wish to deny before thinking men, that the majority had, by the adoption of this proposition, blotted out their constitutional reasoning on the Kansas question was simply foolish. Some of the southern radicals could not help telling the majority so to their face,<sup>1</sup> and the majority could not wrap themselves up in silence, because they were obliged to meet the attacks from the opposite side with the allegation that their formula set aside the objectionable laws, as effectually as if their repeal were expressly provided for.<sup>2</sup> Cass alone knew how to preserve the agreeable consciousness, that he did not become guilty

<sup>1</sup> Brown of Mississippi: "I do not understand how it is that we are recognizing the right of a people to manage their domestic affairs in their own way, and yet when they do not manage them to suit us we interpose to set things right. I confess there are provisions in the legislation of Kansas which I do not approve. But if we are going to stand by the principles embodied in the original Kansas bill, we have no business to interpose; it was their right to pass laws to suit themselves."

Fitzpatrick of Alabama: "The question with me now is whether we shall abandon the doctrine of non-intervention, and override any of the laws of Kansas."

Adams of Mississippi: "It is child's play it seems to me, to confer on the people the right of legislating, and then, after bravely and unconditionally conferring on them the right of legislating for themselves, to say that congress shall supervise their work. Why, sir, congress expressly refused to retain the power of revising the legislative acts of the territory but now you are proposing to declare null and void such parts as do not suit you." *Ib.*, p. 400.

<sup>2</sup> Pearce: "Then the obnoxious laws which it is said, operate to destroy the value of the elective franchise, are in effect repealed. It is true we do not use the word 'repealed.' The laws are not set forth *in eodem verbis* but they are sufficiently described by their character and effect." *Congr. Globe* 1st Sess., 34th Congr., p. 1671.

of the slightest inconsistency. He still advocated non-intervention, but declared it to be self-evident that congress, as it had power to give the territory an organic law, had authority to pass a supplemental act also, if the former had proved insufficient or had been incorrectly understood.<sup>1</sup> The man who had once been enthusiastic for the Wilmot Proviso, and who had then written the Nicholson letter, and declared the Kansas-Nebraska bill to be a triumph of freedom might find a pillow of rest for his conscience in a sophism thus shallow; but the adoption of the amendment introduced by Geyer by a vote of 40 against 3 (Brown, Fitzpatrick and Mason) was, nevertheless, a confession that squatter sovereignty and the principle of non-intervention were the boldest pieces of constitutional and political humbug with which the politicians had ever ventured to make fools of the people.

What did the Democrats believe they would be able to purchase by the sacrifice implied in this confession? That the Toombs-Douglas bill was adopted in the senate by a vote of 33 against 12, could not be a matter of surprise; but was it supposed that a sufficient number of the "friends of freedom" could be deceived as to its true character to such an extent that a majority could be obtained for it there?

On the same day that Toombs had introduced his bill into the senate, a bill had been laid before the house of representatives, by the house committee on territories, which admitted Kansas as a state into the Union under the Topeka constitution.<sup>2</sup> Stephens had moved, on the 25th of June, to substitute Toombs' bill (in its original form) for this bill. On motion of Dunn, the substitute had by a vote of 109 against 102 been amended by the addition

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., App., p. 800.

<sup>2</sup> Congr. Globe, 1st Sess., 34th Congr., pp. 1468, 1469.

of a further section which again restored the Missouri compromise by the annulment of the repealing clause in the Kansas-Nebraska bill, but immediately after the substitute so amended was rejected by a vote of 210 against 2.<sup>1</sup> On the same day (June 30), the bill of the territorial committee was defeated, by 107 against 106 votes.

Two things might be inferred from these ballots. The friends of freedom had voted for Dunn's amendment, only, by its means, to defeat Stephens' substitute. They had no longer any thought of a struggle for the restoration of the Missouri compromise,<sup>2</sup> and not chiefly because it would have no prospect of success, but because they had set them a further aim. They would no longer listen to anything about the division of the territorial domain; their motto was, as Jones of Pennsylvania had rightly said, on the 18th of December, 1855: no further extension of the domain of slavery, and the rejection of every new state which asked to be admitted into the Union as a slave state.<sup>3</sup> But even if this were a sufficient basis for the formation of a party, it was not a programme in respect to the Kansas question. The latter could not be promoted by simple denial, and if the admission of Kansas under the Topeka constitution, was the only proposition which the Republicans had to make, it was certain that, so far as congress was concerned, the problem, at the close of the session, would be exactly where it had been at the beginning. This was changed in nothing by the fact that, on the 3rd of July, the resolution of the 30th of June, was reconsidered, and the bill of the territorial committee on territories then passed by a vote of 99 against 97. The house of representatives received the answer to this reso-

<sup>1</sup> *Ib.* pp. 1513, 1515

<sup>2</sup> See Dunn's bitter complaint on this point. *Ib.*, pp. 957, 958.

<sup>3</sup> *Congr. Globe*, 1st Sess., 34th Congr., p. 39.

lation on the following day. The celebration of the anniversary of the Declaration of Independence consisted in colonel Sumner's riding with his dragoons to Topeka, and ordering the legislature of the Free-Soil party to disperse, which it had to do whether it would or not. The great cry raised over this, was, after all, rather idle, although even Jefferson Davis, the secretary of war, administered a sharp rebuke to the colonel because, through mere fear that the meeting of the Topeka legislature might have serious consequences, he and his cavalry had interfered.<sup>1</sup> Sumner could point, in excuse, to the fact that he had repeatedly and urgently given expression to the wish that the civil authorities might prevent the meeting of the legislature.<sup>2</sup> The soldier who had had no practice in constitutional hair-splitting was not to be too severely blamed because, relying on a proclamation of the acting governor<sup>3</sup> who, basing himself on the proclamation of the president of the 11th of February, spoke of insurrection, he then considered himself not only warranted but even obliged to do as he had done. Looked at from a theoretical point of view, his mistake was not to be lightly estimated, but, from a practico-political point of view, it was entirely indifferent whether he or Donaldson dispersed the legislature, and whether it happened now or not until it had afforded a better pretext for such interference with it.<sup>4</sup> It

<sup>1</sup> Sen. Doc., 34th Congr., 3rd. Sess., Vol. III., No. 5, pp. 59, 60.

<sup>2</sup> See his letters of the 28th of June and the 1st of July, 1856, to secretary D. Woodson, who acted as governor, after Shannon had left the territory. *Ib.*, pp. 53, 54, 55.

<sup>3</sup> Printed in Phillips, *The Conquest of Kansas*, pp. 400, 401.

<sup>4</sup> From the fact that Sumner did not do this, he played a mischievous trick rather on the administration than on the Free-Soil party. It may be plainly read between the lines of the letter of Jefferson Davis already cited, that he owed his rebuke chiefly to this circumstance.



was certain that Pierce would, under no circumstances, endure the meeting of the Topeka legislature, and that, in this, he might count on the unconditional assent of the Democrats and the whole south. And if this was undoubted, it was, of course, much more certain, that the president and the senate would consider and treat the resolution of the house of the 3rd of July, only as a challenge. Hence if the majority abode by it, their programme was simply this: Everything or nothing, that is fight with the conscious renunciation of all immediate result. But considering the course of all the struggles over the slavery question thus far, it was not to be expected that the majority would stand and fall with this motto. Such firmness was all the less to be expected from so small a majority would stand and fall with this various elements, as they could appeal for their demand neither to positive law nor, as has been already shown, to equity. Hence that demand would have been highly unwise, for the great masses of the people were still thoroughly averse to all radical tendencies, and the mistake would have been visited with punishment all the severer as their opponents apparently wished to make a settlement possible by concessions. Hence the vote of the 3rd of July was to be considered probably not as a programme, but as a demonstration and trial of strength, and as such it was fully justified. If leaving Dunn's fruitless endeavors for the restoration of the Missouri compromise out of consideration no other propositions were made, it by no means followed that it was not wished, from the beginning, to set up another programme. On the other hand, it was evident that that programme was not kept back, but that no understanding had been come to as to what it should be.

It had been possible so far to desist from doing this,

because the report of the investigating committee, which had to be waited for, was not laid before the house, until the 1st of July. But now the question had to be approached seriously, as the session which had lasted fully seven months was nearing its close. But strong as was the position of the opponents of the slavery, so long as they persisted in their purely opposition attitude, they showed themselves exceedingly weak the moment they attempted to go over to a positive policy. They toiled at the solution of a problem which could not be solved and thus proved how thick the mist was which still obscured their vision. The Democratic party had identified itself with the slavery, and an agreement with the latter was, in the strict sense of the word, impossible, if it did not give up its position in point of principle. Spite of all the concessions which might have been made by both sides in respect to some points, no result could be reached on the main question. So far as the latter was concerned, the upshot of all further negotiations could only be, that this decisive fact would become clearer. Much was gained by this, but even leaving it out of consideration, the time spent upon that question was by no means lost. These negotiations had to show how firmly men on one side stood by the principles just proclaimed and how far, on the other, policy or fear would be able to secure a hearing for the demands of equity and justice.

The deliberations in the senate had shown that the south and its northern partisans had no idea of an honest desire for an equitable settlement of the controversy. Hence the majority of the house of representatives rightly conceived the notion that it was necessary to exercise a pressure on the senate and the president, if, by the making and discussion of propositions for mediation, the end was to be prosecuted, of having these propositions adopted.

The history of England and many a chapter in the history of their own country, pointed out the way to be taken to accomplish this. The appropriation bills were loaded down with riders intended to obtain by compulsion what was not freely given. With passionate emphasis and amid the loud applause of the majority, Dunn announced, on the 21st of July, that he would not grant one dollar so long as not a single law had been voted to put an end permanently and in a just manner to the troubles in Kansas.<sup>1</sup> As he was not a Republican, but one of Fillmore's most zealous partisans, these words could not be taken lightly. But the senate and the president would have had to be very timid, on the making of that declaration, immediately to strike their flag. The significance of the threat depended upon what Dunn and

<sup>1</sup> "Sir, I have intimated heretofore, and now deliberately repeat, that, until some measure shall be passed into a law which will, to my mind, give assurance of a just and permanent settlement of these troubles in Kansas, no appropriation will ever pass this house by my vote. I will not grant one dollar to maintain and advance the movements of the government in a course which promises nothing but universal ruin. . . . I would cut off the supplies and stop the wheels of government, rather than let it move an inch further in its present ill-directed and most perilous course. If those who control that course are refractory—if they will not heed the clear and distinct utterances of an overwhelming public sentiment, justly aroused to indignation against a great wrong—if dangers that threaten us will not warn or check them, I would cut off the sinews of power and thus compel submission to an overwhelming public necessity. (Cries of 'Good!' 'That is it!' 'That is the doctrine!') I would promptly and sternly meet the consequences of such a course, whatever they might be. It is a remedy allowable under our institutions. It is not revolutionary or violent, but lawful, peaceful, quiet, and effective. It is a means of certain redress against the abuse of power and attempted usurpations, without the terrible resort of revolution. It was intended to save us from all necessity, or pretense of necessity, for revolutionary resorts. It is essentially the great, the very greatest, conservative principle in our government." *Congr. Globe*, 1st Sess., 34th Congr., Append., p. 959.

those who thought as he did, were resolved to demand as a minimum. If they went beyond what the public opinion of the north was ready to sanction, with the utmost decision, they could not but be defeated in the struggle with the president and the senate, and the only result might easily be a serious injury to the good cause. But intense as was the feeling in wide circles of people in the north, in respect to the slavery question, the attaching of conditions to the appropriation of money for the maintenance of the country which their opponents would not even discuss, would never have been approved. But could any propositions be imagined of which this did not have to be said and whose adoption would put an end to the troubles in Kansas permanently and in a just manner? The declaration that it must be done accomplished nothing. So long as Dunn and those who had applauded his utterances had not proved that it could be done, their threat was an idle one, because it could not be carried out. They of course did not consent to make an open confession that they could not redeem their promise; but what need was there of words when their acts showed so plainly that they became more conscious daily that they were not powerfully enough supported by public opinion to enable them to persist in the alternative they had proposed? They retreated step by step before the resistance of the senate. The president had not yet been in a situation to throw his weight also into the scales, and instead of having compelled submission, there was still only one position which had not been surrendered.

Before the struggle for this last position was decided, the majority made another effort to reach a settlement on the main question. Dunn had introduced a bill which subjected the territory to a complete reorganization,<sup>1</sup> and

<sup>1</sup> Found in full in *Congr. Globe*, 1st Sess., 34th Congr., pp. 1815-1817.

the house passed it, on the 29th of July, by a vote of 88 against 74. Their assenting vote cannot have come easy to the Republicans. They did not, however, by that vote exactly deny the vital principle of their party platform, the permanent limitation of slavery to its present domain, but they did not expressly profess it; and, in this, there was, unquestionably, some sordidness or want of rectitude. There can be no doubt that they would have the restoration of the Missouri compromise to mean only that that should be given back to freedom which freedom had been robbed of by the Kansas-Nebraska bill. But if one judged altogether objectively and historically, it could not be denied, that it implied more than this; for although the Missouri compromise only provided that slavery north of 36° 30' should be forever prohibited, the fundamental idea it contained was unquestionably, the division of the territorial domain between the two sections. Hence, by this provision of the bill, the *status ante* was to be restored according to the letter, but not, in all things, according to the spirit, or else the Republican party, so far as its representatives in congress were concerned, gave themselves up, after the party had begun fully to live only a few weeks before. As the latter supposition was out of the question, it was self-evident that it would have been impossible to come to an understanding on the basis of this bill, even if the south and the Democrats had been able to agree to go back to the *status ante*, in the slavery question, in respect to the territories. But, spite of this, the assumption is excluded, that the bill had no object but to tell the more moderate and more conservative opponents of slavery that an earnest endeavor had been made to bring about a settlement. This is apparent unquestionably from the character of the concessions made in the bill. They were no mere seeming concessions like those

in the Toombs-Douglas bill, intended to throw dust into the eyes of the crowd, and they were not concerned with only points of subordinate importance, but, to some extent, with principles.

The restoration of the Missouri compromise was made to depend on the adoption of the provision, that slaves already in the territory, and the posterity of such slaves, should remain slaves, unless they were taken somewhere else, before the 1st of January, 1858. The wording, "lawfully held to service," allowed of the construction, that slavery was recognized as at present legally existing in the territory. But such, evidently, was not the intention. All that was wanted was, not to burthen the solution of the great political question by injuring personal interests; and it was thought that one's own views on the question of law, on this point, should be all the more subordinated to considerations of expediency, as it could not be denied, that the slaveholders might have been honestly convinced, that the controversy had been validly decided in their favor.

The consequences which were drawn by their opponents from another provision of the bill could not be so readily repelled, although the latter was not meant as a surrender of the views of the slaveholders, so far as principle was concerned. The 15th section provided that all cases pending, in the courts of the territory, should be continued in such courts and decided by them; all criminal indictments for alleged high treason and for misdemeanors which were to be immediately quashed, were excepted. Wilson had moved, on the 2nd of July, in the senate, that all the laws of the territory should be declared null and void, and Seward, in supporting the motion, claimed that, in reality, the Kansas-Nebraska bill was the only statute that



had the force of law in the territory.<sup>1</sup> The Democrats had not confined themselves to a refutation in principle of this view, but asked, what was to become of the numberless legal relations entered into, under the territorial laws; and the Republicans gave no answer to the question. If the legislature of the territory had had no legal existence, all the laws passed by it were *ipso facto* no laws, and the legal relations entered into, under them, had not the force of law. But it is a practical impossibility, in a civilized community, to wipe out the creating and unmaking of relations which, according to the vital forms of such communities, are of a legal nature and have legal consequences, and to decree that, in the course of many months, no legal relations have been created. The principles of the Republicans were irreconcilable with the demands of real life, and in the conflict between an abstract legal principle and the imperative demands of real life, the latter are always victorious. It now became apparent that, as has been already remarked, the net cast, with the connivance of the administration, over Kansas by the Border Ruffians, had to be torn or cut to pieces, but that the loosening of its meshes was impossible. Dunn's bill tried to do this, inasmuch as it, without recognizing the legality of the territorial legislature, where the impotence of the principle *vis-a-vis* of the actual situation had to be admitted, ascribed a lawful character to the latter, the condition precedent of which was the legality of the legislature. Dunn and the Republicans were certainly not actuated by the ambition to compete with Douglas for the prize in the impure and hazardous art of uniting yes and no into great principles. All they wanted was to get over an obstacle in their way which could neither be

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., App. p. 762.

ignored nor avoided, as best they could. But as they did not intend to surrender their point of view, so far as principle was concerned, they thought they must deny that they had actually abandoned it. Their opponents, of course, did not admit the validity of this logic. While Dunn and his associates laid all the stress on the causes of the step, the former ignored them entirely, held simply to the fact and said plainly: the house of representatives has, while making certain express exceptions, recognized the laws passed by the territorial legislature.<sup>1</sup> But the principle thus formulated took the entire constitutional basis of the Kansas policy of the Republicans, both as to its positive and to its negative side, from under their feet. So far as the territorial laws did not conflict with the constitution or the organic law, a division of them into valid and invalid laws was constitutionally absolutely inadmissible. The laws passed by the Shawnee legislature were either valid or they were not, for as congress had not reserved the right of sanctioning them, their legal force could not depend on whether they were acceptable to congress or whether it considered them just or not. But they could be valid only on condition that the legislature which had passed them, had the power to pass them, and if the legality of the Shawnee legislature was established, the

<sup>1</sup> Douglas writes in a report of the 11th of August, 1856: "The house of representatives, by the passage of the bill under consideration and the senate by its bill for the admission of Kansas into the Union, have each recognized the validity of the laws enacted by the Kansas legislature at Shawnee Mission, so far as they are consistent with the constitution and the organic act, and affirmed the propriety and duty of enforcing the same, except in certain specified cases." Sen. Rep., 34th Cong., 1st Sess., Vol. II, No. 282, p. 8. So far as the Dunn bill was concerned, this allegation, leaving the provisions in the 15th section out of consideration, could be supported also by the fact that the 11th section expressly spoke of "the laws now in force therein" (Kansas).

whole movement which had culminated in the adoption of the Topeka constitution and in the organization of a state government under it, was a bold revolt against the laws and the lawful authorities.

If an agreement had been reached, in accordance with Dunn's proposals, to begin again in Kansas *ab ovo*, the Republicans would have been able with something like equanimity to disregard the fact that, by their inconsistency, they afforded their opponents the possibility of leading them *ad absurdum* as regards the actual legal status in the territory, just as they had led the Democrats *ad absurdum* by the inconsistencies of the Toombs-Douglas bill in respect to the principle of non-intervention, they would have received the kernel of the nut and left the empty shell to their opponents. But they would scarcely have yielded to the illusion that the bill could become a law. Yet if this did not happen, they had placed themselves, by making those propositions in a much more unfavorable situation for further struggle. If notwithstanding, they made the propositions referred to, the reason must have been due to the recognition that their attitude of simple criticism and denial could no longer be maintained, and on the other to the fact that actual circumstances would have made every attempt at a positive policy while strictly holding to the principles involved in the stand they had taken, an impossibility. Long and loudly as they might still fight over questions of principle, that was all a secondary matter and a means to the end, for both parties were convinced that they could gain nothing but might lose much, by rigid parism in principles; and they acted accordingly. With both parties the controlling consideration was, that indemnity would be readily granted by their constituents for an actual or unadmitted

sacrifice of principle, if only the prize were won or at least not left to the enemy.

But here the situation of the two parties was very different, and to the disadvantage of the Republicans. The Democrats were the *beati possidentes*, and hence they could labor unhesitatingly and energetically, under the protecting mantle of seeming concessions, fully to insure its plunder to the slavery. The Republicans, on the other hand, were not in possession, were not able to carry anything through directly, and could not support themselves in anything by formal law. If they did not allow themselves to be driven still farther back from the *status quo*, they could, whatever might be the consequences, unconditionally count upon their constituents. But how far their constituents would back them, if they endeavored to force real concessions, in an indirect way, was a very different question. Kansas was not to be sacrificed, but the public opinion of the north was not yet ripe, at the risk of a catastrophe, to venture the attempt to carry its transformation back into an undisputed domain of free labor. It was the dread of being left in the lurch by public opinion that always cost the opposition majority so many votes that it became the minority; the further it retreated, the more confident did the Democrats become, that, ultimately, the last demands would be dropped, if they only remained firm.

At last, on the 31st of July, the report in *Re Whitfield contra Reeder* was made.<sup>1</sup> The committee decided against the legality of the territorial legislature, declared, therefore, all the laws passed by it null and void, and held Whitfield's election to be invalid because it had not taken place under a valid law. Reeder was not admitted to

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., p. 1857.

have a right to the seat, because his election had taken place outside the law entirely; but as a much larger number of legal votes had been cast for him, the committee moved to admit him, notwithstanding, as the delegate of the territory. Although it was believed that a precedent could be appealed to in support of this motion, it was lost. Whitfield was indeed refused the seat, but it was not given to Reeder.

This decision was certainly, not only from the point of view of law and equity, but also politically, the most correct that could have been made. And it was unquestionably wise also that, on the 6th of August, an amendment to the appropriation bill, proposed by Dunn and adopted by the committee of the whole, which forbade the levying of the monies granted out of the treasury, until such time as a law had been passed to settle the troubles in Kansas, and the Missouri compromise was restored, was rejected by a vote of 110 against 45. But precisely because the radicals had not been followed in these two questions, the last position might and should have been maintained.

On the 29th of July, a motion of Sherman<sup>1</sup> which attached the following conditions to the appropriations for the army, was adopted by a vote of 91 against 86; that federal troops should not be employed to enforce the laws passed by the Shawnee legislature, until congress had decided whether it was a valid legislature, conformable to the organic law; until such time as that decision was made, it was to be the duty of the president to employ the federal troops in the territory to preserve the peace, suppress insurrections, repel invasions and to protect persons and property, in the territory as well as on the national high-

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., p. 1813

ways or elsewhere, against unlawful arrest, seizure and search; the president was obliged to disarm the present organized militia of the territory, to call in the arms of the United States distributed among them and to prevent armed persons from entering the territory in order to disturb the public peace, to aid the enforcement of real or alleged laws or to support resistance to such laws.

If the formulation of the motion gave reason for well grounded objections to certain points, the senate could make the necessary corrections, and the house would presumably accede to them, if only the fundamental ideas it contained were held to. But if no notion was entertained of fishing any longer in troubled waters, but a desire to decide the question of the legality of the territorial legislature and its laws by way of legislation in a constitutional manner, and until that decision was made to insure quiet and peace to the territory, then these fundamental ideas could only be approved. Only from the most rigid Democratic point of view could their correctness be contested, for the forcing of a decision of the legal controversy, in the sense of the Republicans, by refusing to make the appropriations, was desisted from, and the fundamental ideas of the bill were turned against all disturbers of the peace, no matter what party they belonged to. Hence the Republicans had to take the chances whether the public opinion of the north would stand by them if they did not depart from this ultimatum. If it did not, the yoke of the slavery would become heavier still and work still deeper into the sore flesh of the people, before the north acquired the moral power to break it. But if the north was willing to sanction such a step and the politicians did not venture to take it, those whose backbone had not yet acquired the necessary degree of inflexibility would have



to make place for others who understood the will of the people better, and were ready to fulfill it.

The Republicans, indeed, stood on the ground of this reasoning, but they were not sufficiently clear on the nature and bearing of the considerations on which it was based, to draw the right conclusion for their tactical procedure from it. The more they were persuaded of the necessity of an ultimatum, the greater caution and discretion was it necessary they should use in determining what it should be, out of regard for the smallness and unreliability of the majority in the house, and for the unclearness and uncertainty of a large part of their adherents among the people. But, in this point, they had made a great mistake. The right ideas had found expression in the Sherman clause in so unfortunate a manner, that scarcely a doubt could still prevail as to the outcome of the struggle.

The majority of the senate, of course, objected to the clause as a "so-called rider." The objection was weighty and warranted, but the Republicans must not be accused of a tactical error on that account, for there was no way to exert a strong pressure on the president and the senate, except by putting their ultimatum, as a rider, on an appropriation bill which was simply indispensable. Their position was, therefore, under any circumstances, a difficult one to maintain, for the saddling of bills in this way, can not be approved in principle. Hence they could only vindicate the resolution of the house, by producing proof that circumstances might occur under which the bending of the principle, from political necessity, was a patriotic duty, and that the present was such a case. They had, in other words, to remove the struggle from the ground of academic argumentation to the ground of practical politics, for, on the latter, victory or defeat did not depend on the

tenability of logical deductions but on political feeling and judgment. But, so far as the general question was concerned, they could bring their cause with the utmost confidence before this forum, since gross violations of the principle even on very slight provocation, were so frequent that it seemed ridiculous to wish to stamp all disregard of it as an enormity. It was indeed, correct in theory, that the house of representatives, if it could, in the granting of the monies necessary to carry on the government, do violence to the senate by one condition, was authorized to impose a hundred conditions and thus completely deprive the senate of its constitutional position as an equal factor of the legislative power.<sup>1</sup> But in sober reality, these logical consequences were unsubstantial spectres. The moment the house of representatives did not have the people back of it, any attempt to exercise such compulsion could not but result in injury to itself. Only when public opinion looked upon the senate as a dead body could those logical consequences be realized.

<sup>1</sup> Cass said on the 18th of August: "I am utterly opposed to this mode of coercion by which provisions are to be inserted in appropriation bills that do not properly relate to those necessary bills for the support of the government—provisions involving great questions of fundamental policy under the constitution. The effect of such a system must be that, instead of having a government with two branches in the legislature—a government composed of popular numbers and of state sovereignties, each a check on the other, you would have a government of but one branch, and it would, in fact, degenerate into a French convention. That must be the inevitable result. Whenever the house of representatives have a measure which they are determined to carry, if we adopt this precedent, they have but to introduce it into an appropriation bill, and say that the appropriation bill shall not pass without this principle incorporated into it, and we must yield our opposition. Why, sir, this is a fundamental change of the constitution of the country. You may not call it revolutionary, but it will lead to revolution." *Congr. Globe*, 1st Sess., 34th Congr., pp. 2:29, 230.

and if public opinion ever numbered the senate among the dead, all appeals to the constitution would avail it nothing. If such a conflict between the two houses of congress was carried to an extreme where they had to bend or break, the actual decision would be given by public opinion, that is by the people; and as such a conflict could be carried to an extreme, only in times of great excitement and with respect to questions of cardinal importance, it was certain that the people would then not allow the correct constitutional and political doctrine exclusively to be decisive of their judgment. This was all the more undoubted, as the competency of the senate in respect to the budget was entirely sufficient to enable it to play the same game against the house that the house was now trying against it. But the history of previous struggles taught that it would not allow itself to be deterred from this for a moment by constitutional considerations, if the case should arise. Such big words as "constitutional" and revolutionary, therefore, could inspire no terror and it would certainly have been defeated if it had to rely on them solely in its resistance to the Sherman clause.

One did not need to disturb the dust on its archives, in order to convince the senate that it had no right to declare the country in danger, because "riders" were strapped to the backs of the appropriation bills. The senate's own sins, in this respect, were in part, of very recent date, and the gentlemen who now declaimed most loudly, were among the principal sinners. In the struggle for the domain acquired in the peace of Guadalupe Hidalgo from Mexico, Walker of Wisconsin, had introduced an amendment to an appropriation bill, of which the Democrat, Dix of New York, said that it clothed the president with dictatorial power over the territories; this amendment was adopted by a vote of 29 against 27 in the

senate, and among those who voted aye were Bell, Butler, Fitzpatrick, Houston, Hunter, Mason, Rusk, Sebastian, Yulee and Douglas, thus affording a forcible illustration of the great principles of non-intervention and squatter sovereignty. During the last session, the house of representatives had attached to an appropriation bill five sections which proposed radical changes in the customs rates. In the senate, Hunter had, in the name of the finance committee, moved the adoption of those sections, and the objections to them on principle, he met by calling attention to the fact that almost every appropriation bill was burdened with lighter or heavier "riders."<sup>1</sup> Mason had supported his colleagues with all his strength and claimed that experience had shown that, in the short session, nothing at all could be accomplished, unless the appropriation bills were used as a relay.<sup>2</sup> And Toucey, the special confidant of the president had demonstrated that the saddling of bills with material foreign to them was indeed non political, but that legally there was nothing in their way, and that the finance committee had, in this case, acted quite right.<sup>3</sup> He had, indeed, added that it would be a revolutionary undertaking, if the house wished to force

<sup>1</sup> "There may be no precedent which has gone to this length, but there have been precedents—indeed, hardly an appropriation bill passes which does not contain one, so far as the principle is concerned." Congr. Globe, 2d Sess., 33d Congr., p. 1635.

"The senate, whenever it has any favorite object in view, makes no scruple in overriding the rule for the purpose of putting it on a bill which may force it through. My friend from South Carolina (Mr. Butler) has referred to the fact that they put the incongruous clause, abolishing flogging in the navy, in a general appropriation bill. I may say that the whole general legislation for the navy and army has been for the last five or six years, done on general appropriation bills." *Ib.*, p. 1653.

<sup>2</sup> *Ib.*, p. 1657.

<sup>3</sup> *Ib.*, p. 1634.

the assent of the senate to a measure not acceptable to it, by means of the appropriation bill, and the majority now sought cover behind this reservation. The saddling of a bill, they said, was legally not to be objected to, when it was done, with the voluntary understanding of both houses. It is plain that when a majority in both houses favor a legislative measure, that measure may be passed on in the regular way, and that there is no need of coupling it to an appropriation bill. Unless all understanding of the importance of the principle has been already lost to such an extent that it is sinned against from mere convenience, such a coupling is in and of itself a proof that an external pressure is considered necessary to reach the desired end.<sup>1</sup> Politically it was of course of the greatest importance how far the pressure should be carried, but the principle was in any case violated and if the principle was sacrificed, it was no longer a legal but only a political question where the limit should be drawn.

In this debate of the 1st of March, 1855, the southern senators had been repeatedly cautioned, that, sooner or later, an appropriation bill with a "rider" would come from the house which would make the slavery bitterly regret that its representatives were not now mindful of the maxim, *principia obsta*. These warnings were dismissed with the assertion that the south had no longer anything whatever to hope for, if its safety depended on no gross abuse being made of the saddling of appropriation bills with riders. Correct as this was, the fact that

<sup>1</sup> The pressure may indeed, be directed against the president also, but so far as the constitutional question is concerned that does not change the matter in the slightest. It is just as much opposed to the spirit of the constitution to force the president as it is to force one of the two houses of congress to assent to a bill, by threatening to stop the machinery of government by refusing to grant the monies necessary for operating it.

they had then advocated disregard of the principle might now easily have avenged itself, if they did not also have the possibility of raising the constitutional question in respect to the substance of the Sherman clause.

Against the demand that the militia should be disarmed, the article of the constitution might be cited which guarantees to citizens the right to keep and bear arms. Fessenden, therefore, moved to amend this passage to the effect that only the arms belonging to the United States which had been distributed to the militia, should be demanded of them. As the adoption of the amendment did not at all prejudice the vote on the whole clause, its rejection by a vote of 28 against 13,<sup>1</sup> could not mean anything, unless it was wished to assert that this demand too was unwarranted, or to leave the clause in as obnoxious a form as possible, in order to make its rejection seem better founded. If this latter was the reason, the ground of the opposition to the clause was, evidently, not that it came up in the form of a "rider," but because the object to be attained by it was not liked; and, in the former case, *mala fides* was shown, since the new governor, Geary, had described the militia as an undisciplined band.<sup>2</sup>

The position of the majority in the senate, in respect to the provision which required the president to use the federal troops to prevent all illegal obstruction of freedom

<sup>1</sup> Congr. Globe, 1st Sess., 34th Congr., App., p. 1090.

<sup>2</sup> He writes on the 12th of Sept., 1856, to Marcy: "I have determined to dismiss the present organized militia, after consultation with, and by advice of General Smith, and for the reason that they are not enrolled in accordance with the laws—that many of them are not citizens of the territory—that some of them were committing outrages under pretence of serving the public—and that they were unquestionably perpetrating, rather than diminishing the troubles with which the Territory is agitated." Message and Documents, 1856-57, I., p. 95.



of intercourse on the national highways was much stronger. Only the Missouri, which constituted the boundary between Kansas and Missouri in the northeast, could, in this case, be called, with undoubted propriety, a national highway. But the settlers from the north in great part did not come from Iowa down the river, and, therefore, the provision would have attained its end to protect them from the Border Ruffians on their journey to the territory, only very imperfectly, even if henceforth no steamer coming down the river should be molested. Even on rivers which were universally acknowledged to possess the character of national highways, the police power was exercised by the states through which they flowed. And if it were admitted that congress--especially because the stream here was the boundary of a territory--might authorize the president to make such use of the federal troops on the Missouri, it certainly could not authorize or require him to cause the same military service to be performed on Missouri territory, wherever it seemed to him that the state did not take means sufficient to insure the safety of the highways.<sup>1</sup> What the Sherman clause contemplated

<sup>1</sup> The question gave rise to an animated discussion in the second session also. Toucey said in this debate, "I see, in the first place, a proposition that it shall be the duty of the president of the United States to go into the states upon the highways leading in the direction of Kansas, and there usurp the undoubted powers of the state governments. It purports to make it the duty of the president to interfere with persons and property in the states, and there protect them from unlawful seizures and searches. Now I desire to know what authority the president of the United States has to go into any state and exert any power whatever, as president, to prevent unlawful seizures of persons or property? Is there any senator in this body--is there any man in the country who will say that the president, under the constitution, has any such power? Where do you find it? What becomes of the sovereign power of the states? Can the president of the United States interfere in a mere case of trespass on person or property upon the highway in any state

was entirely warranted, but the means it wished to employ was constitutionally unallowable, and here an amendment could not, as in the case of the provision first discussed, be immediately proposed which did away with the well founded objection to it. If Missouri did not want to protect the settlers from the free states, within its borders, it was difficult to say how it could be done by the federal executive, or by federal legislation, without encroaching upon the jurisdictional domain of the separate states; on the other hand, the Republicans could not decline to provide for the security of freedom of intercourse on the highways leading to Kansas, for in the contest for the possession of the territory, the Border Ruffians had the power in their hands, as long as they were able effectually to blockade those highways.

A point had, therefore, been reached here again, at which it became manifest, that the matter had gone too far, to be brought on the right track, even if the majority in the two houses of congress had wished to do it. As this wish by no means existed in the senate, it of course used the difficulty as a cloak for its want of good will. The minority pointed to the fact, that in the Toombs-Douglas bill, the senate looked upon certain laws of the territorial legislature as too monstrous for it to be able to bear the odium of defending them, but by the striking out of the Sherman clause, the yoke of these laws would still be

of this Union? Every one knows that he has no such power, and that the government has no such jurisdiction. It is a matter belonging exclusively to the states. It is controlled by state laws. The judicial authorities of the states must interfere for the purpose of adjudicating and disposing of all questions of that kind. It is only in the case of insurrection or rebellion, or to enforce legal process under the express provisions of the constitution, that the president can interfere." *Congr. Globe*, 2d Sess., 34th Congr., p. 31.

forced on the territorial population by federal troops.<sup>1</sup> This was correct, but the argument could, obviously, make no impression. The senate had only, on account of that odium, agreed to the virtual annulment of certain laws, but had never wanted to draw the logical consequences which flowed therefrom. It now, would not any more than previously, let go the least advantage that had been gained, and the Sherman clause was unacceptable to it chiefly because that clause wished to have the question of the validity of the territorial laws declared an open one; but while it rejected the clause mainly on this account, it assigned as the reason for its rejection, the unconstitutionality of the further demands coupled with this main one, and by the unpermissible connection in which the demand was made of it. The disregarding of the principles of the Kansas-Nebraska bill by the 'Tombes-Douglas bill, therefore served it, as a further cloak in this; while it had proved its readiness to remedy all grievances which might perhaps not seem altogether unfounded, the house of representatives refused the proffered hand and wished, by the employment of unconstitutional compulsion, to force it to evident violations of the constitution.

If the essence of things were looked at, this reasoning put the facts upside down, but with this sophistical distortion of them, there was an admixture of so much truth, that many of the honest opponents of slavery would doubtfully ask themselves, whether the course of the house could be approved only if the principle that the end justifies the means were confessed to. Hence, Seward had, on the 7th of August, admitted that he did not expect to see the majority of the house of representatives hold their

<sup>1</sup> See Fressenden's remarks, Congr. Globe, 1st Sem., 34th Congr., App. p. 1036.

position.<sup>1</sup> On the few votes which would fall away from them, the slavocracy might calculate, as soon as, supported by the mistakes of their opponents, they had by their skillful manœuvres so far brought the more formal side of the question in the foreground, that the Republicans, if they placed the senate before a definite alternative, could no longer count on the strong support of all those who in the main had approved what had been designed by the move.

On the 13th of August, the house dropped another "rider" intended to force<sup>2</sup> the quashing of all political suits, on the assurance given by Campbell, that no further prosecution of them was intended.<sup>3</sup> Thereupon Marshall immediately began to play sweet airs on the shalm of peace.<sup>4</sup> That was foolish, but this readiness to be satisfied with the private promises made to a representative did not certainly allow one to infer a bellicoseness confident of victory. It would, therefore, have been premature, to accuse Seward of unjustifiable pusillanimity, because the majority of the house defended the Sherman clause with

<sup>1</sup> "I must confess that, in all questions concerning freedom and slavery in the United States I have seen houses of representatives, when brought into conflict with the senate of the United States, recede too often and retreat too far to allow me to assume that in this case the house of representatives will maintain the high position it has assumed with firmness and perseverance to the end." *Ib.*, p. 1107.

<sup>2</sup> See the wording of the clause, *Congr. Globe*, 1st Sess., 34th Congr., p. 2000.

<sup>3</sup> "I will say that I am satisfied that no man will be prosecuted, or punished for treason, now imprisoned or under arrest in Kansas . . ."

Washburne of Illinois. "I ask the gentleman by what authority he makes the assertion?"

Campbell: "I say more. I take the responsibility of saying that I know it." *Ib.*, p. 2091.

<sup>4</sup> "I want to say that the friends of the Union—the lovers of peace—can breathe freer and deeper now than for months past. The spectacle presented by those parties which esteem themselves the

greater stubbornness than the Democrats and their nativist allies might have expected. A conference committee of the two houses had come to no agreement. A second committee, in like manner, reached no result, and Giddings who had been chairman of it, moved that the house should adhere to its resolution which would have defeated the appropriation bill. Campbell who, as chairman of the committee on ways and means, exercised considerable influence and who now made it felt in favor of a discreet and conciliatory policy,<sup>1</sup> on the other hand, moved that the words "insist on" instead of "adhere to" should be used, by which means the possibility of the appointment of a third conference-committee was gained. This motion was acceded to, but the new conference achieved nothing, although the house had desisted from the demand that the militia should be disarmed.<sup>2</sup> The senate appointed a fourth conference committee and adopted a resolution to postpone the close of the session which had been fixed on the 22nd of July, by a joint resolution of the two houses, for the 18th of August at 12 o'clock noon. The house proceeded to take a vote on this resolution. The secretary had just called one name, when the speaker, in accordance with the resolution of the 22nd of July, declared the session closed.

No decision was hereby made, for it was not doubted

great parties of this country, is novel, striking, and wonderful. Their great sectional quarrel seems to have been somehow adjusted and the news comes to us under such auspices as to deserve, as it will no doubt attract instant public attention." *Ib.*, p. 2693.

<sup>1</sup> He said as early as the 13th of August. "I tell gentlemen, if they insist upon their provisions to all these bills under such circumstances, they endanger the success of the appropriation bills, and will raise such a whirlwind of indignation among the industrial masses, whose interests depend upon the success of the government, as has been unknown in the history of our past." *Ib.* p. 2692.

<sup>2</sup> See the clause in the new wording. *Ib.*, p. 2239.

that the resolution of the senate would have been adopted, if a vote could have been taken on it. Both in the senate and in the White House, the Republican phalanx was considered sufficiently shattered to warrant them to look upon their victory as certain, if a new attack was made immediately, and hence on the very same day, a message of the president called an extraordinary session of congress to meet on the 21st of August.

The second session of the 34th congress lasted only about as many days as the first had months, and its history is soon written. The house passed the appropriation bill for the army in its earlier form by a vote of 95 against 53; the senate struck out the obnoxious clause; the house refused its assent to the amendment; the senate "insisted" on its resolution, without, however, appointing a conference committee; the house therefore declared that it would "adhere" to its resolution; whereupon the senate did the same, and the bill was thereby dropped. This was a prelude to which a certain dramatic effect cannot be denied, but which had no real significance. The thread had to be taken up again where it had been cut at noon on the 18th of August, by the stroke of the clock; on the motion of the senate, the 21st rule of the order of business was suspended, by which the bill was restored to the place in its deliberations which it had occupied at the close of the last session.

During the following days, it seemed as if, even in this way, not a step further would be made. During them, the attention of the people was claimed by a few short episodes which cannot be passed over completely.

In the senate, Weller, by a bill for the amendment of the Kansas-Nebraska act, brought up once more for discussion the infamous laws, by the passage of which, the territorial legislature had done the slavery so poor a



service. According to his own declaration, he wished to effect thereby what the 18th section of the Toombs-Douglas bill which had been buried by the house, had contemplated. It must remain doubtful whether he was moved thereto by the moral indignation at the laws to which he gave emphatic expression,<sup>1</sup> or whether he was also determined thereto by the political consideration that the Republicans should be deprived of such agitation capital, and whether it was well, in view of the appropriation bill, to manifest a disposition to make some advances to them. A doubt, on this point, could not but be entertained, for, although he said, that the president should not have the power to execute one of those laws, he had neglected to mention the laws which should be abrogated. Bayard expressly declared that, although some of the laws in question, were undoubtedly shocking to the moral sense, he could vote for the bill only because it was to be looked upon solely as a "declaration of rights;" to judge of the validity of definite laws and prohibit their enforcement would be an encroachment on the domain of the judicial power, or, according to circumstances, of the president.<sup>2</sup> Mason went a step farther still. He said that, if among the territorial laws, which he had not read, there were really any that were unconstitutional, the courts would so decide.<sup>3</sup> In his opinion, the senate was free

<sup>1</sup> Congr. Globe, 3d Sess., 34th Congr., p. 29.

<sup>2</sup> *Ib.* p. 30.

<sup>3</sup> When Benjamin expressed the same view, Clayton answered: "We want the swift redress of an immediate legislative act, to prevent the outrage and wrong that may be inflicted by these iniquitous enactments. He, on the contrary, holds that we must needs wait until the supreme court shall come here next winter, or probably the question could not be tried till the winter after that, when a man may have toiled two years at hard labor for giving an opinion on a question of law." *Ib.*, p. 48.

from all responsibility in this matter, as the house had taken no notice of the Toombs-Douglas bill. Clayton, indeed, claimed that the house would yield immediately, in respect to the appropriation bill, if the senate agreed to the repeal of these laws, and if it did not agree to it, it would have to share the responsibility for the defeat of that bill with the house.<sup>1</sup> The senate agreed with Mason, and laid Weller's bill on the table. Herein lay the importance of the renewed discussion of this question, on which, after the endless debates in the first session, nothing new could be said: by this vote the senate gave notice that it no longer considered it necessary to make any concessions, in order to carry its refusal to agree to the Sherman clause.

It was, therefore, from the start, an endeavor, which had no prospect of success whatever, that Crittenden, on the following day (August 25th) made an entirely new mediating proposition, although it would have deserved the most serious attention. The most material provisions of the bill were these: the territorial legislature to be abolished and Kansas transformed into a territory of the second order, that is the legislative power to be exercised by the governor and the judges, and the laws not to need the sanction of congress;—as the reason for this change was only the impossibility of holding a free and honest election, under existing circumstances, this mode of government to last only until the condition of affairs in the territory allowed congress to take the necessary steps for the transformation of the territory into a state;—the laws of the territorial legislature in conflict with the organic law or the constitution to be in this way suspended, as it was proposed to suspend them by the Toombs-

<sup>1</sup> *Ib.*, p. 37.

Douglas or the Weller bill;—the president to be required to employ the troops to prevent all disturbance of the peace in Kansas and to endeavor, by all constitutional means, to protect travel to and from the territory against all illegal obstruction. This bill too, certainly gave rise to many well-founded objections and not only with respect to what it contained, but especially with respect to what it passed over in silence. It was, however, beyond a doubt, more impartial than any proposition which had been hitherto made and afforded at least the possibility of gaining time so that the solution of the problem might be given by actual circumstances now in process of development or that such a solution might be found by the way of legislation. But even if the bill had not made the ingenuous demand of the majority that they should abandon the principle of non-intervention completely, all consideration of its proposals would have been absolutely excluded, since they were based on the supposition that both parties honestly desired to come to an equitable settlement. But the senate was now as far from entertaining such a wish as it had ever been. As it had laid the incomparably more harmless Weller bill on the table, it was self-evident that the Crittenden bill would share the same fate at its hands. Its resolution was irrevocably formed to fight out the struggle on the basis of the Sherman clause, and not to allow it to depend on an appeal to public opinion, but to force an immediate decision, that is to keep the house in Washington until it yielded.

On the previous day, the house had resolved, by a vote of 110 against 76, that the speaker and the president of the senate should adjourn congress *sine die*. It was an empty demonstration. The house had no means to compel a close of the session. If the senators wanted to make the sacrifice of remaining in Washington the remainder

of the hot season, the representatives would have to submit to the same martyrdom, or purchase their release with the Sherman clause. The senate was now in a situation to be able to achieve a complete victory by sitting it out, and it made it easier for itself to sit it out, by beginning to persuade the politically naïve and nervous that it was thus saving the country from the terrors of civil war. Benjamin acted as if there was no longer any question that the Republicans were systematically planning a civil war,<sup>1</sup> but he forgot to say how that end was to be accomplished by refusing to appropriate money for the support of the army. Seward was certainly right when he said that Benjamin did not even see spectres but only pretended to see them.<sup>2</sup> His assertion was so senseless, that it could be understood only on the assumption that he wished, by his cry of alarm, to increase the excitement among the people in order to exercise further pressure on the house of representatives. But of this there was no longer any need.

The deliberations of the new conference committee led to a negative result, which was of importance, in so far as it removed all doubt as to the true position of the senate. On the further provisions of the clause nothing more was said, because the representatives of the senate had declared that they would not, under any circumstances, agree to the demand that the employment of the federal troops, in the execution of the territorial laws, should be prohibited. Hunter, in his report to the senate, defended this absolute refusal, alleging that the demand was made in the form of a "rider;" and he expressly stated that its

<sup>1</sup> "I say, sir, I dare not go to the senate on their issue, because it is one of civil war. They will beat us on that issue, they will succeed in getting up their civil war, if we adjourn." *Ib.*, p. 46.

<sup>2</sup> *Ib.*, p. 50.

substance was such that the senate could not think of granting it.<sup>1</sup> Seward replied that this was a formal declaration that the senate would give peace to Kansas only on condition that it would surrender freedom.<sup>2</sup> The untruthfulness of the frequently repeated assurance, that the pacification of the territory, in accordance with the demands of equity, was wished for, was, indeed, clear as the sun, since it was unconditionally insisted on that the laws of the territory inclusive of the infamous and bloody laws which the senate itself had condemned, should be executed, if the creatures of the Border Ruffians who were in office and honor asked that they should be enforced. But the representatives of the senate, in the conference committee, had acted entirely in conformity with the intentions of the senate. The house dropped all its other demands and reduced the Sherman clause to the provision, that federal troops should not be employed to enforce the territorial laws. By a vote 26 to 7 votes, the senate struck out the proviso,<sup>3</sup> and the house approved the striking out of it by a vote of 101 to 98. Permis-

<sup>1</sup> *Ib.*, p. 59.

<sup>2</sup> 'Peace' The senate will give peace to Kansas now on one condition—that Kansas will surrender freedom, and accept slavery. Is there anything new in this proposition? Is it not the very proposition that you made when you passed the Kansas-Nebraska law? If the people of Kansas would have accepted slavery, they could have had peace at the hands of congress eighteen months ago, and there would never have been a marauder, or even a hostile intruder from Missouri, within the territory. They have always had the option of peace: they have it now, independently of you; they have only to strike the colors of freedom, and run up the black flag of slavery, and thereupon peace, order, and tranquillity will reign throughout the prairie: they have chosen for their abode. Aye, and the longer that slavery shall last there, down to that period, I know not how distant, when the African race itself shall rise to assert its own wrongs the surer and more profound will be the peace that will prevail there." *Ib.*, p. 60.

<sup>3</sup> *Ib.*, p. 78.

sion was not granted Whitney to introduce a bill which suspended certain territorial laws, and a resolution moved by Grow to insure the safety of persons imprisoned for alleged high treason was not brought to a vote. On the same day (August 30), the session was closed.

The unorganized opponents of the slavery had struggled with unshaken firmness and a watchfulness that never tired, for two months, until they had carried the election of their candidate for speaker; but although their organization into a great party had been accomplished in the meantime they had achieved simply nothing in the Kansas question, because now, at the last moment, a few hearts had grown weak and a few arms were paralyzed. The legislative result of the nine months session of congress was in this regard—nothing. But this fact is no measure of its political result. The "finality" declarations and the promises of eternal peace which had acted as godfather and godmother to the Kansas-Nebraska bill, had been afforded a commentary written in words of thunder. Since the days of the War of Independence, the Angel of Liberty of whom Seward had recently spoken had not careered across the country with such a mighty rush and flapping of wings; yet he came not as a messenger of peace, but as a herald of judgment. Those who had fought under his standard had been defeated, but no sounds of jubilation passed the lips of the victors: in the eyes of the demagogues glowed the dismal fire of the gambler, unshakable resolution flashed out of those of the convicted slaveholder, and on the knitted brows of all sat not the gladness of victory but provoking defiance. They knew that they had won nothing, but only repulsed an attack and that the battle would be renewed more hotly to-morrow than it had raged to-day. The immediate representatives of the people had never before made so



powerful an effort to shake off the chains into which the slavocracy had cast the country; it had never been so difficult for the senate to preserve for it merely what the slavocracy actually possessed; nor had it ever been so certain that it would not enjoy its victory a single hour. The one question which had been the polar point of this whole session was: what can, what should, what must we do for bleeding Kansas? And the senate had carried a measure which meant that the answer to it should be categorically and unconditionally—nothing. The fury of political passion, the lamentations of women and children, the oaths and curses welling up from the inmost hearts of men, the roaring of the flames, the whistling of bullets, the groans of the wounded and the death-rattle of the dying—such was the reply to that answer, borne by the western winds to the farthest extremes of the land.

At the very moment that the first session of the 34th congress closed without result, both parties in Kansas had returned with redoubled energy to the wild dance. Douglas held the Republicans alone responsible for this. To accumulate bloody capital for the presidential election, they had caused an army of invasion to be recruited in Iowa by Lane, an army which had made itself useful in the state elections by illegal voting, until the news that the appropriation bill for the army had not been passed and that congress had adjourned, gave them the signal to throw themselves on the territory which had for months enjoyed the profoundest peace; never again would troubles in Kansas have been heard of, if this band of incendiaries and murderers had not broken into it.<sup>1</sup> Douglas possessed in the fullest measure the happy faculty of forgetting at the right moment what it did not suit him to remember.

<sup>1</sup> *Ib.* p. 51.

He now forgot that, at the end of July, the coming of armed immigrants had awakened the fear in general Smith, who had had chief command of the federal troops in the territory since the 1st of July, that the dance would soon be started again.<sup>1</sup> He forgot further that colonel Sumner had report on the 11th of August, the great dissatisfaction of the Missourians at the fact, that the troops not only held down the free state party, but wished to put an end to their own business<sup>2</sup>—a remark which was very ungraciously received by Jefferson Davis.<sup>3</sup> Finally he forgot that governor Shannon, on the same 18th of August on which the fate of appropriation bill for the army was decided, had sent in his resignation to the president, assigning as a reason therefor that he had neither the necessary moral influence nor the requisite military power to preserve the peace of the territory.<sup>4</sup> The documents which had not been published at the time were probably not before him in full, but, considering his relations to the administration, they were, beyond doubt, known to him in substance; he could in any event be informed of them, and as he could be, he had to be, if he wished to hurl such a frightful charge against the Republicans. And even if he knew no more than was known to every reader of the news-

<sup>1</sup> He writes to lieutenant colonel S. Thomas. "In the territory of Kansas there have been no disturbances, but emigrants are coming in armed, as though they were prepared to begin again when an opportunity offers" Sen. Doc., 34th Congt., 3d Sess., Vol. III, No. 5, p. 66.

<sup>2</sup> He writes to colonel Cooper: "The Missourians were perfectly satisfied so long as the troops were employed exclusively against the free state party; but when they found that I would be strictly impartial, that lawless mobs could no longer come from Missouri, and that their interference with the affairs of Kansas was brought to an end, then they immediately raised a hue and cry that they were oppressed by the United States troops" *Ib.*, p. 50.

<sup>3</sup> *Ib.*, p. 60.

<sup>4</sup> Message and Documents, 1856-57, I., p. 80.

papers, he was sufficiently well informed of the real condition of things in the territory to be fully aware that his description misrepresented the true state of affairs not only by enormous exaggeration and unrestricted invention but also by the fact that his pencil had transformed the troop of wolves of the law and order party into a herd of pasturing lambs.

Douglas's charge was, however, by no means baseless. The Free-Soilers had now really been the disturbers of the peace, and although no documentary proof of the fact can be produced, it may be assumed that their breaking loose had a direct connection, if not the connection alleged by Douglas, with the action, or rather with the want of action of congress in respect to the slavery question. In Lane's so-called "army," there was a large number of families, and it had not crossed the boundaries as a solid mass. The body of immigrants led by Lane personally numbered at first 325 men and 60 women. Of these, however, only about one-half came to Kansas, because on the way, three parties were left behind to establish towns. This alone proves beyond a doubt that they were real settlers, and not mercenaries of the Republican party who were to work for Fremont's election by incendiarism and murder. A comparison of the dates shows further that they had not waited for the close of the session, and that, therefore, the acts of violence committed by them could not be explained by the foolish illusion that the federal troops would have to immediately disappear from the stage, because congress had not passed the appropriation bill for the army. The session had closed on the 15th of August, but the immigrants had arrived, on the 11th of August, in Topeka, and on the following day, the first struggle had taken place at Franklin. The attack on the postmaster's house was, as general Smith stated in a report of the 29th of

August, to the adjutant general, probably occasioned by the wish to get possession of the arms which were stored in it.<sup>1</sup> Not because no money had been appropriated for the maintenance of the army, but because the senate did not want to adopt the Sherman clause and congress had done nothing to insure the Free-Soilers their rights, or to give them any guarantees for the future, did they now come to blows. They no longer doubted that, as had been said months ago in congress, the president and the senate would abide immovably by their resolution to fully redeem the drafts issued to the slavocracy on Kansas, and that therefore peace in the territory would come to a close as soon as people became convinced that this could not be done without new acts of violence. But they did not want to purchase the security of their property or their persons by striking the flag of liberty, to use Seward's expression, nor did they wish to wait until it suited their opponents to deal the last blow. They therefore took the initiative, and helped themselves, that they might enter on the struggle which had become inevitable, as strong as possible. But every offensive blow of the Free-Soilers, even if it were much more harmless than the attack on Franklin, could not but upset the peace established by colonel Sumner with his dragoons, like a house of cards.

In Franklin, the Free-Soilers were the victors, after they had set fire to the postmaster's house, but it was a fruitless victory, as their opponents had taken many prisoners. On the 14th of August, about 20 pro-slavery men—among them the Cuban filibuster Titus who had been wounded—were taken prisoners by a party of scouts from Lawrence in the neighborhood of Leecompton. Shannon wanted to have them liberated by force by a division of

<sup>1</sup> Sen. Doc., 34th Congr., 3rd Sess., Vol. III., No. 5, p. 77.

dragoons under Sedgwick, but the latter declared that the order could not be carried out, and the weak governor agreed on the 17th of August to a compromise in which there was even less honor than in the first Lawrence treaty. The prisoners were exchanged and Lawrence got back the cannon which had been taken from it. The murder of several Free-Soilers on the same day showed what value was to be ascribed to the mutual promises to suspend hostilities.

General Smith did not draw from the arrangement made between Shannon and the citizens of Lawrence the conclusion, that the events of the 12th and 14th of August should have no farther consequences. The fact that he collected all disposable troops at Fort Leavenworth did not warrant that hope, because he expressed the view that it was the right and duty of the Missourians to protect their friends and relatives in the territory.<sup>1</sup> The Missourians had always claimed as much, and that these fanatics of duty and the law would not too scrupulously mark off the boundaries to which the commander of the federal troops acknowledged their right to go, was announced by their leaders and their press with so much emphasis, that even the most sanguine could not lull themselves into illusions of peace.

The news of the doings in Franklin and Leecompton spread with the swiftness of the storm, but fancy and bad will had made out of the unexpected blast a raging storm which swept with irresistible force over the unfortunate party of law and order until it reached the Missouri

<sup>1</sup> In the report to Colonel Cooper above quoted, we read: "I do not think it was proper to prevent citizens from the neighboring border of Missouri coming over to aid and protect their relatives and friends from the outrages offered by the parties from Lawrence and Topeka. On the contrary, I should consider it a duty they owed."

border.<sup>1</sup> First of all, of course, Atchison and Stringfellow rushed to the alarm-bell. While "general" Richardson did not call out the militia until the 15th of August, their summons to battle was sent through the country on the 16th, with the terrible tidings that Lecompton was taken and that the dragoons had been beaten. They did not call in vain. The whole border was as busy as a beehive when its tenants are on the point of swarming. The crowd of rescuers and avengers grew larger every hour, and every newspaper number increased their impatience and their rage by exaggerations<sup>2</sup> and sensational descrip-

<sup>1</sup> Smith too said in the same report: "Missouri has been excited by reports exaggerated to the highest degree."

<sup>2</sup> The *Argus-Extra* closes with the following appeal: "Citizens of Platte County! The war is upon you, and at your very doors. Arise yourselves to speedy vengeance, and rob out the bloody traitors. Recollect that, although this unholy and unnatural war is carried on in Kansas, it is against you and your institutions. By a prompt and vigorous action you may put it down and save the Union; but if you lay supinely on your backs, and allow the black treason to get a firm hold in Kansas, you will find, when it is too late, that you have allowed the golden moments to pass, and a long and bloody war, involving all the states of the Union, will be inaugurated; and then you will have to fight, not for your rights, but for your very existence, not for the Union and constitution—for they will have been destroyed in the outset—but for some sort of an existence among the nations, either as slaves or abject dependents of some power, perhaps, of Europe. While you are inert, the powers of the Union, north and south, will be slowly mustering for the mighty conflict that is to follow: and all Europe will look on with satisfaction at the termination of this republic and the end of this liberty. Rouse up, then, and strangle the demon of disunion and destruction. Patriotism and the love of country, law and liberty, demand it at your hands."

The Richmond *Wax* printed a letter of J. A. Hutcheson, a Virginian, from Kansas City, of the 16th of August, in which we read: "Col. McCarty and all our folks will leave to-night. We will go in this time with a force sufficient to clean out Kansas, you may rely on that, and this attack will make Kansas a slave state, beyond all doubt. Let me assure you that Missourians will never go into Kansas again without driving out the last scoundrel. Before eight days have elapsed,



tions of what had happened. "This time, we must go to work in earnest, for half-way measures and forbearance are a crime against ourselves and against the Union"—such was the warning of the press, such the assurance of the leaders and such the vow taken with wild oaths by the patriot band behind them, a band which under the influence of whiskey was capable of the utmost devilishness.<sup>1</sup>

The invasion army raised in Kansas, which, by the 25th. of August, had grown to 1150 men, chose Atchison for its commander-in-chief, and started for Kansas in two divisions. Woodson who, in the meantime (Aug. 21), as acting governor, had called out the militia, issued a proclamation which declared the territory in open rebellion. General Smith, in his report of the 29th of August to the adjutant general, gave expression to the definite expectation that the army of invasion would be incorporated

Missouri will send in five thousand Border Ruffians and they will never leave as long as there is an abolitionist in that beautiful territory. They have been there twice, and the third time will tell the tale. Nothing is surer now than that Kansas will be a slave state. While I am writing this, Clay County is sending over 500 men who are now crossing at this place, headed by colonel Doniphan. Platte County will send 500 men, and Jackson County 1000.

<sup>1</sup> See for instance the *Agon Estra*, dated Weston, Aug. 18, 1856, copied in the Sen. Doc., 34th Congr., 3rd Sess., Vol. III, No. 5, pp. 75-77. According to this description, several settlements were completely destroyed, black smoke from burning buildings rose in every direction; Titus was killed, Secretary Woodson either dead or a prisoner, and Leecompton was burned down. "Governor Shannon, when last heard from, had fled from Leecompton, and was wending his way on foot towards the Missouri. To sum up the whole the facts are these. The whole proslavery party south of Kaw river have either been killed or have fled to places of safety. All the proslavery towns in Douglas county have been pillaged and destroyed, women have been violated and children driven from their homes to make room for bloody monsters. Robinson and the other prisoners in the custody of the law have been rescued, and the reign of terror has been regularly installed."

into the militia, then proceed to an attack but meet with resolute resistance. With regard to the last point, Atchison and Woodson were evidently of the same opinion, for the latter asked for reinforcements, in a proclamation issued the same day, and the latter, on the 1st of December ordered lieutenant-colonel Cooke, to reduce Topeka, with the federal dragoons.<sup>1</sup> Cooke, however, refused to obey the order, since it required immediate war on Topeka while the marshal had never yet met with resistance when federal troops accompanied him.<sup>2</sup>

The *Charleston Standard* was written to from Atchison, Kansas, that the troops collected at Leecompton were intended to defend the property of the United States, but would not interfere in the struggle.<sup>3</sup> Was this correct, and how was it to be understood? Had Cooke acted in accordance with the intentions of his superiors, and could the limits which were not to be overstepped by the federal troops be found in his refusal, without any more ado, to treat Topeka as a hostile city which must be conquered, or were those troops to be henceforth assigned the part of idle and wholly impartial spectators?

General Smith told adjutant-general Cooper, in a report of the 10th of September, that in Kansas there were not merely two parties opposed to one another, but that four groups had to be distinguished: the majority of the citizens by whom the legislature had been chosen, the Free-Soilers, the Missourians under Atchison, and the rabble who sought a livelihood by criminal vagrancy under the cover of a political name;<sup>4</sup> the situation of the territory was a

<sup>1</sup> Sen. Doc., 34th Congt., 3rd Sess., Vol. III, No. 5, p. 91.

<sup>2</sup> *Ib.*, p. 92.

<sup>3</sup> The letter is printed in the *New York Tribune* of Sept. 16, 1856.

<sup>4</sup> A party, at the head of which is a former senator from Missouri, and which is composed in a great part of citizens from that state who

most disconsolate one,<sup>1</sup> for with a few exceptions in the first class, these parties had not only completely lost respect for the law, but had even abandoned all honesty. There was, therefore, sufficient reason why the troops should not be allowed to stand aside, like idle gazers. In accordance with the statement that the main bodies of the hostile parties should be kept in check while the troops were concentrated between Lawrence and Leecompton, it had to be assumed that Smith did not intend to permit the troops to act in that capacity. But it was hard to find a confirmation of this assumption in the facts. On the 1st of September, the Border Ruffians had thrown themselves on Kansas, commanded all males able to bear arms to enter the law-and-order army, driven the obstinate out of the city, killed four persons, burned down several houses and compelled fifty of the inhabitants to leave the territory; and the general had inactively looked out at these doings from the fort. Cooke was, therefore, evidently right when, the day before, he told major Deas, in a letter, that he suspected his presence encouraged the militia and others to commit outrages,<sup>2</sup> and the militia and Border Ruffians judged the situation correctly, when they looked upon the proximity of the troops as a covering of their rear. Smith might not have intended this, for in the letter of the 10th of September to Cooper above referred to,

have come into this territory armed, under the excitement produced by reports exaggerated in all cases and in many absolutely false, form the third. There is a fourth, composed of idle men congregated from various parts, who assume to arrest, punish, exile and even kill, all those whom they assume to be bad citizens; that is, those who will not join them or contribute to their maintenance." Sen. Doc., 34th Cong., 3d Sess., Vol. III, No. 6, p. 80.

<sup>1</sup> " . . . the territory is ravaged from one end to the other."

<sup>2</sup> "I suspect that my presence encourages the militia and others to commit outrages."

he stated not only that the attack of the Missourians on Brown at Ossawatimie was a grossly unlawful act, but further that the assailants had surrendered all claim to consideration. But as, according to him, the thirteen Free-Soilers who had lost their lives in the struggle, did not deserve to be mourned,<sup>1</sup> he could not very severely blame the wicked world if it doubted his impartiality and the purity of his intentions. If he really was not able, as he claimed, to prevent the fight at Ossawatimie, and if the same was true in regard to the Leavenworth outrage, the concentration of the troops between Lawrence and Leecompton was of a very problematic value. If he was really too weak to check the endless terror, there was not much gained by the prevention of a collision between the two main bodies. But if he failed to check that endless terror, solely because he was too weak to do so, why did he say that it was unnecessary to call out the militia of other states? What was to be expected from the militia of the territory he had told plainly enough in his report of the 29th of August, and now the declaration that there was no need of the militia of other states was immediately followed by the announcement, that the territorial militia should be subjected to a complete reorganization which should precede their complete disbandment.

These resolutions in respect to the militia of neighboring states and of the territory had, as the report stated, been taken in agreement with governor Geary, who had reached Leavenworth on the 9th of September, but this only made the matter stranger still, since Geary painted the condition of things in even more sombre colors than Smith. He corroborated, to the fullest extent, the report that Kansas had fallen under a reign of terror, but he laid

<sup>1</sup> "Though there is nothing to regret as to those who suffered "

the blame chiefly on the Border Ruffians, the militia and the territorial officials.<sup>1</sup> Strange therefore as it was that he, no more than Smith, wished to take advantage of the permission to make a requisition of the militia of the neighboring states, this explained why he, in agreement with the general, looked upon the disbandment of the territorial militia as absolutely necessary. But the design to disband them met with the most decided resistance in the White House. Without taking the slightest notice of what had been done up to the 1st of September by the Missourians, Jefferson Davis had given instructions to the troops on the 3rd of September to proceed without hesitation or indulgence against the Free-Soil people.<sup>2</sup> He now, in answer to the report of the general of the 10th of September, said that the delay caused by the disband-

"The very day he arrived in Leavenworth, he wrote to Marry: "I find that I have not simply to contend against bands of armed ruffians and brigands, whose sole aim and end is assassination and robbery, infatuated adherents and advocates of conflicting political sentiments and local institutions, and evil-disposed persons actuated by a desire to obtain elevated positions, but, worst of all, against the influence of men who have been placed in authority, and have employed all the destructive agents around them to promote their own personal interests, at the sacrifice of every just, honorable and lawful consideration. . . . The town of Leavenworth is now in the hands of armed bodies of men, who, having been enrolled as militia, perpetrate outrages of the most atrocious character, under shadow of authority from the territorial government. . . . In isolated or country places, no man's life is safe. The roads are filled with armed robbers, and murders for mere plunder are of daily occurrence. Almost every farmhouse is deserted, and no traveller has the temerity to venture upon the highway without an escort." *Message and Documents*, 1856-57, I. pp. 88, 89.

"The position of the insurgents, as shown by your letter and its enclosures, is that of open rebellion against the laws and constitutional authorities, with such manifestation of a purpose to spread devastation over the land, as no longer justifies further hesitation or indulgence." *Sen. Doc.*, 34th Congr., 2d Sess., Vol. III, No. 3, p. 29.

ment of the militia would leave peaceable citizens unprotected and would deprive the government of the possibility of vindicating the laws in as exemplary a manner as its honor and dignity demanded.<sup>1</sup> Because Woodson's decree had transformed the invasion army of the Border Ruffians from Missouri into the militia of Kansas, the administration insisted that it was a very serviceable tool to restore the authority of the law which had been overthrown and to give peace to Kansas, although the governor, the general commanding the federal troops and his subordinate officers emphatically asserted they were a disorderly band of political fanatics, unprincipled adventurers, bandits and incendiaries. Pierce and his cabinet were resolved neither to see nor hear. Reeder, Shannon, Geary, Sumner, Smith—all had come into the territory as devoted servants of the administration without any sympathy for the Free-Soilers and to some extent, violent opponents of them. But none of them had been able to carry out the policy of the administration, and one of them after the other was forced by facts that cried to heaven for vengeance to bear witness against that policy and its partisans. But the president answered all the more stubbornly: I shall not yield and I shall not let go.

In an audience which he granted to the National Kansas Committee, Pierce persisted in the old claim that the Kansas Aid Societies had caused all the mischief; they

<sup>1</sup> "Instructions of the executive for the complete organization of the militia of the territory, and the authority given to the general commanding to make requisition for such of that militia as he might require, did not look, under the circumstance, to the delay incident to a total disbandment and new organization of the militia; and it is to be feared that with the time thus lost will pass the opportunity for that full protection of unoffending citizens, and for that exemplary vindication of the supremacy of the laws which the reputation and dignity of the government demand." *Ib.*, p. 83.



had fostered the spirit of rebellion in the territory and the population was now reaping what they had sown.<sup>1</sup> The committee was of opinion that, as the president had declared his constitutional powers were exhausted and order not yet restored, it was proper to investigate whether the cause of the troubles was not to be found in the laws of the territory. Pierce answered that he did not wish to enter on the discussion of that question, whereupon the committee remarked that to whatever causes it was to be ascribed, the condition of things in the territory defied all description; and it therefore asked, whether, in view of this undeniable fact, any change in the policy of the administration was to be expected. "No, sire, there will be none!" was the answer, and with it the conversation ended.

All that the spokesmen of the slavery and their northern partisans had said of the spirit of impartiality and conciliation which had dictated the Toombs-Douglas bill and the other propositions which came from the slavery must be read in the light of this blunt answer; and in that same light must be read all the denunciations glowing with moral and patriotic indignation of the "revolutionary" Sherman clause. Pierce made good in part all that had been lost in the house of representatives to the cause of freedom, justice and truth in politics, by the faint-heartedness of a few opponents of the slavery.

<sup>1</sup> "Kansas Aid Societies have been actively stirring up rebellion. A factious spirit among the people of Kansas respecting institutions which they need not have concerned themselves about and which would all have come right in time, originated the trouble. The sufferings of the people are of their own seeking, and the legitimate fruits of the gunpowder-bible-preaching which they and their supporters at the north have advocated." See the *Independent* of Sept. 4, 1856.

This answer of Pierce's was the most effective speech delivered for John C. Fremont in the electoral campaign of 1856.

## CHAPTER IX.

## THE PRESIDENTIAL ELECTION OF 1856.

The impression made by the defeat of the friends of freedom in the house of representatives was not in proportion with the expenditure of endurance, force and passion in the struggle. The people did not underestimate the importance of that defeat, but the debates in congress were drowned by the noise of the presidential campaign. No one supposed that the issue of the campaign depended on the result of this parliamentary struggle, and every one knew that the victory which the slavery had now achieved in the capitol, could not be turned to account in a decisive way, unless it triumphed in the presidential election also. In the same measure that its representatives and partisans in congress had become more confident of victory, it became more undoubted, by the course of the electoral campaign, that it would not exercise a depressing effect on the Republicans, but would rather spur them onward, if the house of representatives effected nothing in the Kansas question, and hence the great parliamentary battle, so far as the importance of its final result was concerned, shrank more and more to the dimensions of a mere affair of advanced guards.

Fillmore was in Europe, when he was chosen by the nativists of Philadelphia as their standard bearer. His letter of acceptance dated Paris, May 21, was made up of commonplaces as empty as the declarations of the National Council. On his return to America, however,

he was soon convinced that he could not rest satisfied with that. As the National Council and the national convention of the Know Nothings had proclaimed their absence of a programme and as he, who did not belong to the party at all, had therefore to take the place of a programme, the people had of course to hear from his own mouth how he would have his candidacy understood. The old Whig could not have forgotten how greatly Henry Clay had hurt himself by trying to work for his election by private letters which were intended for the public, and from the history of the last presidential campaign, he had certainly learned as well as others, what great advantages a party may draw from the silence of its candidate. Hence it was presumably not empty loquacity and a want of appreciation of the demands of propriety, but disagreeable necessity which determined him to try to gain votes for himself by making profession of his political faith on several occasions, when, under other circumstances, a few phrases would have sufficed and would have served his interests better.

As he had been nominated by the Know Nothings, he had, of course, to come to an understanding with Know-Nothingism. An express declaration that he approved the nativist endeavors could not be avoided, because he was not a member of the order, but for the same reason, and especially because he was to be the candidate of all the conservatives, he should not have identified himself with it. The task was, therefore, not an easy one, but in an address at Newbury<sup>1</sup> he performed it in a manner which placed his diplomatic skill in a powerful light. "Know Nothing," "Sam," "Jack," "Sons of Sires" were names which were still used only by opponents of the party, the members of which called themselves "Americans," and this fact Fillmore knew how to turn to good account. The

<sup>1</sup> L. C.

Know Nothings could believe that he associated himself unreservedly with them when he said: "I am an American," and others only needed to construe the words in the general sense in which it was true of themselves also, in order to take no offence at it; the former found in the addition "and with the Americans" an emphatic confirmation of the preceding announcement, while the latter interpreted it only as an expression of a certain general sympathy with nativist tendencies. The explanations which followed warranted the latter view at least as much as they did the former. They began with the emphatic assurance that he would open wide the door of the asylum of the United States with its rich blessings to the oppressed of every country and would tolerate all religious convictions, but would oppose the abuse of religious organization for political ends. Whether he approved the prescription of the Catholics could, therefore, not be discovered from these utterances, spite of their emphatic nature, for it was not stated whether the Catholics had been guilty of such abuse. On the second main point of the Know-Nothing programme, he expressed himself just as emphatically and just as obscurely. That the full rights of citizenship should not be granted to immigrants for "a proper season" had never been questioned, and it had from the first been so determined by the naturalization laws. The only question was how many years were such "a proper season," and on this he said nothing. Hence, from the fact that he was silent on that question, nothing could be made out of the concluding declaration: Americans will and should govern America independently of all foreign (!) influence.

Filmore had shown himself a master of the art of using language to conceal one's thoughts, but he was very far from employing it on every occasion. The speech he

delivered in Albany on the 27th of June,<sup>1</sup> was of a plainness which among nearly half the people properly caused more surprise and indignation than the phrases of his Newbury speech which paid compliments on every hand and allowed any interpretation.

In Albany he brought the Republicans to judgment. By the simple manœuvre, to say nothing about their principles, he was able to take the same point as they had taken for the starting one of his review of the situation, and to allow his reasoning to end in a statement which even the most rabid Fire-Eater of the south might approve without reserve. While he declared the agitation of 1850 to have been unavoidable, he ascribed the present one to the personal ambition of Douglas with whom the Kansas-Nebraska bill had originated.<sup>2</sup> The interjectional remark that this agitation threatened to produce a civil war, he then used as a means to help him over all the disagreeable conclusions which flowed from that assertion, and, without any connection with what had preceded it, to give the assurance that he had the preservation of the Union more at heart than anything else. This was followed by the allegation that, for the first time, a party had taken its two candidates for the federal executive from the free states and wished to elect them, by the votes of one-half of the Union, although they would have to govern the whole of it. He next asked whether the Republicans could be so foolish or so insane as to suppose that the south would consent to be governed by such a president and proved that that would never be the case, by asking

<sup>1</sup> Printed in the *N. Y. Tribune* of June 30, 1856.

<sup>2</sup> "But it is for you to say whether the present agitation which now distracts the country and threatens civil war has not been recklessly and wantonly produced by the adoption of a measure to aid in the personal advancement of its author."



the further question, whether the north would submit if the south declared that only slaveholders should be president and vice-president and chose them exclusively by southern votes. And he ended by asking whether the Republicans had not become guilty of moral high treason when it was so evident that their victory could lead only to the disruption of the Union, to anarchy and civil war.

Fillmore was in his twenty-eighth year and had just entered on the political stage as a fellow-actor, when the Harrisburg convention nominated John Quincy Adams and Richard Rush as its candidates for the presidency and vice-presidency, and the latter had received in the election as many electoral votes as the former.<sup>1</sup> American politicians are wont to have so good a memory for such facts that it would have been surprising, under any circumstances, if Fillmore had forgotten this. As he had accused the Republicans of moral high treason and based the charge on the allegation that the two candidates for the

<sup>1</sup> All the more weight was to be attached to this precedent as Adams himself had repeatedly and emphatically asserted that it was not to be recommended to take two candidates from the north. As early as May, 1824, Rush had been proposed for the vice-presidency by Plumer, and Adams said of the proposition: "The objections to Rush as vice president with a northern president were to taking both the officers from non-slaveholding states--both from the same great section of the country." *Mem. of J. Q. Adams*, VI, p. 332. On the 24th of January, 1838, he writes in his diary: "He (Rush) also spoke of the nomination of himself for the vice presidency at the recent Harrisburg convention, and enquired what my impressions were respecting it. He said his own course in relation to it would much depend upon my views and those of the members of the administration."

"I told him candidly that, so far as I had been consulted by the friends of the administration, I had advised that the selection should be made of a citizen residing south of the Potomac. This had been fully considered, and had ultimately been judged not indispensable. The Harrisburg convention having made the nomination, I hoped it would be universally accepted and supported." *Ib.*, VII, p. 400.

federal executive had never yet been taken from the free states, it could only be supposed that he—unless he did not at all comprehend the moral responsibility which he thereby assumed—had refreshed his memory on the history of all previous electoral campaigns. What could he now answer when the Republicans reproached him with conscious untruth or unbounded frivolity? The fact that Rush and Adams were not elected changed the matter in nothing. Since, in the case before us, there was as yet question only of the putting up of candidates, his appeal to the past could have reference only to their nomination. But perhaps he had in mind only the presidents and vice-presidents who had been actually elected and hence had really forgotten that precedent. But if he had only gone through the list of the latter, what would he have said when he came to the names of Jackson and Calhoun? He had indeed only asserted that both candidates had never as yet been taken from the free states. But what difference was there in this respect between the north and the south? If at that time, the north wasted scarcely a word on the fact that the president and vice-president had not only come from the slave states but were slaveholders themselves, why should it now be not only a matter of course but justifiable for the south to destroy the Union, because both offices had been confided to men from the free states?

But even if there had been no precedents, how could a sufficient ground for the disruption of the Union, for anarchy and civil war be found in that fact, in and of itself? Had the Union ceased to be a constitutional state, or did Fillmore wish to claim that the Republicans, by their selection of candidates, had sinned against the constitution? There was no question that the letter of the constitution had not been violated, and if any one had

run counter to its spirit, it was those who declared it to be not only expedient but an absolute duty, to have both sections always represented in the federal executive. The constitution knew no sections; it knew only the Union, the states and the citizens, and the only limitation which it imposed on the electors with respect to the residence of the candidates was that both should not belong to their own state.

That both candidates lived in the free states—by birth, Fremont belonged accidentally to the south—would have afforded ground for complaint, only if the Republicans had wished to exclude all southerners as such, on principle, from these two offices. But they did not have even a remote idea of so excluding them. If they had found a distinguished and otherwise suitable man among them, one who subscribed fully to their programme, they would probably have selected him as their candidate for the vice-presidency, not only that they might forestall the objection that their choice of candidates stamped them as a sectional party, but also because they would have thought, for obvious reasons, that they would be able to make a great deal of capital out of such candidacy in the electoral campaign. In the eyes of the slavocracy, on the contrary, the storm clouds in the political heavens would have been just as dark or even darker if such a southerner had taken Dayton's place. When the slavocracy declared the victory of the Republicans to be the end of the Union, it did so, not because neither Fremont nor Dayton had his domicile in a slave state, but solely because it saw, in the Republican party programme, a declaration of war against its specific interest which confronted it with the question of existence and therefore made secession an imperative command of self-preservation.

Fillmore knew as well as any man in the Union, that

the certificates of birth and home of the Republican candidates had nothing to do with the crisis which had come upon the country, and that they were therefore of no importance, so far as the judgment to be passed on the party was concerned. When he spoke of them, he did so only because he could not speak of the only thing which was material, the party programme, without destroying his own argument. If he had been able to declare the party programme unconstitutional, he would, of course, have done so, and made that allegation the basis of his attack. His silence on this subject allowed only one interpretation, namely, that he considered the charge of unconstitutionality made by the south, unfounded. But if the opposition of the Republicans to the slavery did not exceed the limits imposed by the constitution, where did he get the right to brand them as guilty of moral high treason? Was not that substituting the will of the slavery for the constitution and inviting them to secession if the north considered itself no longer obliged to purchase the preservation of the Union by recognizing the specific interests of the slavery as absolutely decisive of the legislative policy of the republic? The programme of the Republican party might be constitutional and yet in the highest degree a vicious and lamentable one, but moral high treason in a constitutional party programme was an absurdity.

Fillmore, however, did not say that the programme of the Republican party, from a political point of view, was in itself to be condemned. He spoke only of the consequences which its triumph would have, but was silent on that more general question which evidently was not as a matter of course, considered an academic question and which as such might be ignored, as well as on the constitutional question; while the newspapers of the free

states which were advocating his election repelled the accusation that he had been won over to the extension of slavery, with the utmost moral indignation.<sup>1</sup> Some papers even went so far as to assert, that he was a much better and more reliable Free-Soiler than Fremont.<sup>2</sup> On the other side of Mason and Dixon's line, on the contrary, the Fillmore organs naturally recalled what he had done as president for the south, and inferred from it that the slavocracy might have full confidence in him. He was silent, and what his partisans in the south and in the north, said of him was in direct contradiction. As to what he and his party intended to do in the slavery question in general and especially in Kansas, if they got into power, not a word escaped him. The voters had to take him for what his past had been, and in that past, every one could find what suited him. When Fillmore was

<sup>1</sup> Thus the *N Y Express* writes: "Why ask this question? What reason affords Mr. Fillmore's life for the asking? Look at his votes in congress when representing the Erie district, New York. Contrast them with Fremont's, when only seventeen working days in the senate. Mr. Fillmore is the only president under whose administration free territory has been annexed to the Union. . . . Why doubt?"

And so Hiram Ketchum said: "I attached myself in early life to that party which was always and ever opposed to the extension of slavery, and I say here to-night that the Whig party of the north has always had that creed, and these Republicans can't take out a patent for it, for many a long year. And I say that Mr. Fillmore has been true to that party, and has never had any other principle but that which would prevent the further extension of slavery." *Congr. Globe* 3d Sess., 34th Congr., App., p. 89

<sup>2</sup> The *N Y Commercial Advertiser* writes: "As between Mr. Fillmore and Mr. Fremont for the presidency no comparisons are admissible. Even on this very slavery question, it is unwise of the Republicans to provoke a comparison. . . . The reader has only to look at the votes of each gentleman when respectively in public life, to find that Mr. Fillmore is immeasurably a better anti-slavery extension man than John C. Fremont." 1 c

compelled not only to reprove others but to make his own confession of faith, he said so expressly.

In a letter of the 29th of September, 1856, to W. M. Berrien of Charleston, he complained that he was wrongly represented in the north as a pro-slavery man, and in the south just as wrongly as an abolitionist. His long public career showed what he was in reality. Definitely formulated pledges in respect to his future course, he could not give. If the north or the south, spite of all he had done for its constitutional rights, mistrusted him, he could only hope that it would find some one worthier of its confidence. In his own judgment, therefore, he had deserved so well of both sections and given so little reason to either for complaint, that his past course afforded security enough to both that they might implicitly and without fear trust him at the helm. But when the formulation of this self-criticism was examined closer, it was easy to refute it by itself. In his apostrophe to the north, its constitutional rights were mentioned side by side with its interests; in the sentences intended for the south its interests were not referred to, but he laid special stress on the sacrifices he had made in his fearless struggle for its constitutional rights.<sup>1</sup> By these sacrifices could evidently be understood only the criticism passed in the north on his behavior in the conflict of interests between the two sections, the formal basis of which was their opposite views on their

<sup>1</sup> "If after all that I have done, and all the sacrifices I have made to maintain the constitutional rights of the south, she still distrusts me, then I can only say that she may find one more just and more fearless and self-sacrificing than I have been, and that when found she may show her gratitude by her confidence. And so of the north—if after all I have done to maintain her constitutional rights and advance her interests, she distrusts me, I hope she may find one more worthy of her confidence, and bestow it accordingly." The letter is printed in the *N. Y. Tribune* of Oct. 13, 1856.



constitutional rights. But considering the opinions prevailing in the two sections on their respective rights and interests, it was simply impossible to pursue a policy in which both would see a full guaranty of their rights and interests. This Fillmore had, as the stress he laid on his sacrifices showed, learned from his own experience, and it was therefore absurd for him to claim now, that both sections might blindly trust him, because he had already proved to them, that he was able to give justice to both, to the fullest extent.

In this criticism of himself, however, there was one thing which was incontrovertibly true: he had fearlessly advocated the rights of the south, and had made sacrifices for it. That he now so emphatically recalled this undeniable fact, excluded all doubt as to what tendency would govern his policy, if the people lifted him again into the presidential chair, without asking or receiving from him any programme but a reference to his past. But this was all that could be gathered from that letter and from his different speeches. In what manner he intended to approach the burning questions of the sectional conflict, and to what extent he meant to side with the slavery, no information whatever was given. He did not know himself, and if he had known, he would not have told, since if he did he would have injured himself either with his northern or with his southern followers, although and because the latter could not and would not give a precise answer to those questions. They were of one mind only in respect to what they did not want: that alone was undoubtedly clear from their speeches and from the utterances of their journals, and that alone was the *raison d'être* of this party without a past, without a name and without a programme, swept together from party

ruins of every description by the hurricane of the Kansas question.

Elfus Choate declared, on the 26th of October in Lowell, that, in view of the sacred duty of preventing the success of the Republicans, all other considerations should be silent; he who had always been a Whig, and was one still, would vote for Buchanan.<sup>1</sup> The Fillmoreites occupied the same ground entirely; only as to the means by which this one and exclusive end of patriotic Philistinism was to be attained, were they of a different opinion; and the one chosen by them was unquestionably the better, that is, the safer. In the slave states, it was, indeed, thought it might be hoped that a large, if not the largest part of the Fillmoreites would go over to the Democrats, at the eleventh hour,<sup>2</sup> but no one could harbor the illusion that, in the north, the majority of the conservatives could be

<sup>1</sup> "With these opinions, fellow-citizens, I aim, in this election, at one single object; I feel but one single hope, and one single fear. To me, all of you, all men who aim at that object and share that hope and that fear, seem allies, brothers, partners of a great toil, a great duty, and a common fate. For the hour, opinions upon other things, old party creeds adapted for quiet times; old party names and symbols and squabbles and differences about details of administration, seem to me hushed, suspended, irrelevant, trifling . . . I care no more now whether my co-worker is a Democrat, or an American, or an old Whig, a northern man or a Californian man. . . . The election once over, we are our several selves again . . . You have decided, fellow Whigs, that you can best contribute to the grand end we all seek, by a vote for Mr. Fillmore. I, a Whig all my life, a Whig in all things and as regards all other names, a Whig to day, have thought I could discharge my duty most effectually by voting for Mr. Buchanan and Mr. Breckinridge; and I shall do it." Works of R. Choate, II, pp. 411, 412.

<sup>2</sup> See the Washington correspondence of the *Independent* of the 14th of August, 1856. But it became evident again that the radicals were, by no means, masters of the field to the extent they succeeded in making people believe by their loud talking. In the slave states, 658,359 votes were cast for Buchanan and 425,117 for Fillmore.

induced, by the fear of a Republican victory, to follow Choate's example. If a *tertium quid* was not offered them here, it was undoubted, that the great majority of them would join the Republicans. Even now their ranks grew thinner every day, but not in favor of the Democrats.<sup>1</sup> It was not long since the northern nativists, in the Know Nothing convention, compelled a radical alteration of the platform, by calling attention to the fact, that the future of the party lay entirely in the north, and that a victory in all the free states had been declared a certainty, if the 12th section were stricken out. And now the Fillmoreites in the north were far behind those of the south<sup>2</sup> in absolute numbers, while the aggregate number of voters in the north was three times as large as in the south. Not, as Lumpkin thought, to carry the election, in the interest of the Republicans into the house of representatives, did the northern leaders of the Fillmoreites fight the electoral battle as a third party, but because only by that means could the majority of the conservatives in the free states be kept from uniting with the Republicans and because that union might easily bring Fremont into the White

<sup>1</sup> Walker of Alabama said on Aug. 16, in the house of representatives:— "If I mistake not, there are but two non-slaveholding states in which Mr. Fillmore has an electoral ticket, and in one of these (Indiana) Mr. Dunn, a member of this house, and who has not only attempted at this session to have the Missouri line restored, but who has over and over again declared that he never would consent to any new slave state coming into the Union, has been appointed a Fillmore elector."

"The failure to organize electoral tickets in the free states must be regarded as significant evidence that a very large portion of the Know Nothing party in those states has been sunk into the dirty pool of Black Republicanism. It is known that in the state of Massachusetts, and in various other states, there have been ruptures in American meetings, and that in every instance where a demonstration was thought to be made in favor of Mr. Fillmore as the party nominee, a breach took place." *Congr. Globe*, 1st Sess., 40th Congr., App., p. 1176.

<sup>2</sup> In the free states, Fillmore received only 387,842 votes.

House. That Fillmore would never enter it again, they were themselves very clear,<sup>1</sup> and they were very far from wishing the victory of the Democrats in itself, but with full consciousness and all the energy which fear can inspire, they labored indirectly for it, because with Choate they were convinced that a'l patriots should now have only one battle cry: Down with the Republicans! Hence the *Independent* correctly described their position when it said that they were a conservative pro-slavery party out of considerations of expediency.<sup>2</sup>

It would have been as hard to fill a barrel without a bottom with water as to save the Union by a conservative pro-slavery party which had become such a party because of its patriotic anxiety for the Union. The southern radicals told them every day that such a party was an abomination and an impossibility, because the existence of slavery would not be secure until its constitutional, political and ethical equality of rights with freedom was unreservedly admitted.<sup>3</sup> And on the other hand, the

<sup>1</sup> That there was no possibility of their victory in any free state was so evident, that all self-delusionment on the point was absolutely excluded. And on their prospects in the south, Barksdale of Mississippi said, in the house of representatives, on the 23rd of July: "In the south, his (Fillmore's) most sanguine friends claim for him Maryland, Kentucky, Tennessee, North Carolina, and Louisiana. If he should succeed in all of them, he would then have but forty-eight electoral votes, not enough by one hundred and one to secure his election." *Congt. Globe*, 1st Sess., 34th Congt., App., p. 1181. By the fulfillment of this hope the election would, indeed, have been brought into the house of representatives, but it would have been the work not of the northern but of the southern wing of the party.

<sup>2</sup> "The Buchanan party are driving the gospel of slavery aggressive, the Fillmore party maintain the same gospel conservative. The Buchanan platform makes slavery the rule on principles, the Fillmore platform makes slavery the principle, on expediency." *The Independent*, Sept. 25, 1856.

<sup>3</sup> The *Charleston Mercury* of April 1, 1856, wrote. "The ensuing presidential canvass, which will probably determine the fate of the

course of the northern democratic politicians established the correctness of the idea on which the existence of a

Union, will turn almost solely on the question of state equality. None can consistently or effectively contend for state equality, who do not hold that the institutions of the south, and the social form of the south, are equally rightful, legitimate, moral, and promotive of human happiness and well-being, with those of the north. If slave society be inferior in these respects to free society, we of the south are wrong and criminal in proposing to extend it into new territory, and the north right in exerting itself to the utmost to prevent such extension."

And so the *Richmond Enquirer* in an article entitled "The True Issue." "The Democrats of the south in the present canvass cannot rely on the old grounds of defense and excuse for slavery; for they seek not merely to retain it where it is, but to extend it into regions where it is unknown. Much less can they rely on the mere constitutional guarantees of slavery, for such reliance is pregnant with the admission that slavery is wrong, and, but for the constitution, should be abolished. The constitutional argument for slavery, standing alone, fully justifies the Abolitionists.

"Nor will it avail us aught to show that the negro is most happy and best situated in the condition of slavery. If we stop there, we weaken our cause by the very argument intended to advance it; for we propose to introduce into new territory human beings whom we assert to be unfit for liberty, self-government, and equal association with other men. We must go a step further. We must show that African slavery is a moral, religious, natural, and probably, in the general, a necessary institution of society. This is the only line of argument that will enable southern Democrats to maintain the doctrines of state equality and slavery extension.

"For if slavery be not a legitimate, useful, moral, and expedient institution, we cannot, witho it reproof of conscience and the blush of shame, seek to extend it, or assert our equality with those states having no such institution.

"Northern Democrats need not go thus far (!). They do not seek to extend slavery, but only agree to its extension as a matter of right on our part.

"We know that we utter bold truths. But the time has now arrived when their utterance can be no longer postponed. The true issue should stand out so boldly and clearly that none may mistake it." *Congr. Globe*, 1st Sess., 34th Congr., App., pp. 951, 952. Compare also the article of the same paper entitled "State Equality," of June 13, 1856.

third party in the free states was based, namely that the latter had gone over irrevocably to the Republicans unless all the wavering and doubtful could be made to believe that a conservative policy in the slavery question which would not go a hair's breadth beyond the *status quo* in favor of the slavery, was possible, and would be inviolably followed.

The Democratic mob in the cities could not be kept from proving, here and there, by telling demonstrations, that it did not cost them the slightest victory over themselves to act as train-bearers to the slavery, because they had no understanding of the moral element in the struggle.<sup>1</sup> The newspapers and speakers applied themselves with zeal, skill and wonted barefacedness to the business of washing the blackamoors white. Here it was given to be understood that Pierce and Douglas had found no favor with the Cincinnati convention because they were chiefly responsible for the repeal of the Missouri compromise;<sup>2</sup> there it was neglected to publish the resolution of the Cincinnati convention which bore Pierce witness that he had come up to the hopes and expectations of the party and that full recognition would be shown his policy;<sup>3</sup> elsewhere flags were raised and transparencies carried with the inscription: "Buchanan, Breckenridge and a free Kansas!" and day after day, from Maine to California, the proof could be heard adduced that Buchanan's election afforded incomparably greater security than that of

<sup>1</sup> Thus, for instance, in New York, a picture was paraded in a procession representing three scourged negroes with bleeding backs and the circumscription: "Bleeding Kansas," and in Washington, on a similar occasion, a transparency with the motto "Sumner and Kansas: let them bleed!" *Congr. Globe*, 3rd Sess., 34th Congr., App., p. 60.

<sup>2</sup> *Congr. Globe*, 3rd Sess., 34th Congr., p. 55.

<sup>3</sup> See *Id.*, pp. 66, 208, 211.



Fremont for admission of Kansas as a free state,<sup>1</sup> and that no northern Democrat had now or ever before been guilty of such a betrayal of liberty as the Republicans who, by their vote for Dunn's bill, had wished to give slavery a legal existence in Kansas. When the victory had been won, the first assertion above mentioned was denied, the second branded as a base lie, and then, after the proof was adduced, declared unintentional and accidental; "free" Kansas was represented as another expression for non-intervention and popular sovereignty,<sup>2</sup> and finally nothing remained but the absurd and bold distortion of the concession to the slaveholders who had come to Kansas under the protection of the territorial laws, by which Dunn wished to facilitate the restoration of the Missouri restriction, into a shameful surrender and denial of Free-Soil principles. These were profitless arts. Even if the gentlemen had shown themselves greater masters in them than they really were, they would not have been able, after the decision had been made, any longer to conceal the fact that they had believed that, in the free states, the victory could be disputed with the Republicans only by the aid of deception and fraud. Not only did the northern and the southern wings of the Democratic party stand on such different ground that the *Richmond Whig* could rightly say that the only question was which of the two sections was to be swindled,<sup>3</sup> but the northern Demo-

<sup>1</sup> The *Democratic Standard of Concord, N. H.*, went so far as to say in its issue of July 5, 1855: "It is the Democratic party's steady march is to the emancipation of all men white as well as black, from the shackles of bondage. Such is the tendency of Democratic principles, and such, in the end, its sure result."

<sup>2</sup> Even the southern radicals did not admit that this justification had any value. See the remarks of Brooks, the hero of the 22nd of May. *Congr. Globe*, 2d Sess., 34th Congt., App., pp. 109-110.

<sup>3</sup> "We see Mr. Buchanan's name again, published right under his

crats could no longer dare to acknowledge their true programme, although they had a powerful stay in the secession threats of the south.

How these threats, of whose frightful seriousness there was no question with the northern Democrats, could be harmonized with the assurances of their own leaders, that they were after all, only pursuing the same ends as the Republicans, by different means, and that the Democrats were still to be a united party—for all this they did not account to themselves. The contradiction involved herein was covered by the flood of evil things spoken of their opponents and by the official enthusiasm for their own candidates whose part and personality were incapable of awakening genuine enthusiasm in any one. This was a matter on which they were not to reflect or become clear for if the south really thought, as it pretended to think, and if the party in the north was to carry a mask of lies, in order not to deprive their struggle with the Republicans of all prospect of success, Pike was evidently right when he claimed that they had to fear victory as much as they did defeat.<sup>1</sup> The party and the Union, therefore, would

nose in Lancaster, and supposed to express fully Mr. Buchanan's sentiments, boiling over with indignation at the bare insinuation that Buchanan is, or ever was, in favor of extending slavery, and giving the lie to such insinuations in the most emphatic manner. And yet Mr. Buchanan is held up to us here in the south, and is supported by the great bulk of his party here in the south upon the sole and exclusive ground that he is the advocate of slavery extension, and will so administer the government as to enlarge the area of slavery and augment the political power of the south by the addition of more slave states."

And so Breckenridge who was considered the special knight of the south, said in the north "he belongs to no political organization that desires to extend slavery" . . . Which is to be the victim of this outrageous and infamous swindle, the north or the south?" N. Y. *Tribune* Nov. 4, 1856

<sup>1</sup> First Blows of the Civil War, p. 331.

have gained only a further reprieve of four years by its victory, for the south, as a matter of course, would immediately demand again that it should still, by all it did or left undone, give the lie to the fair words, by which it had been sought during the campaign to lull the awakened consciences of the north into drowsiness again; that is it had to continue unceasingly to widen the breach between its two wings and propagate the Republican party most effectually. At the moment that the net of sophistry was completely destroyed which had kept the Democratic party externally together, long after it had practically gone to pieces, the Republicans were masters of the field and the last hour of the Union under the constitution of 1789 had struck.

If this calculation did not turn out to be correct, it could only be because, with a large fraction of the northern population, the fear of the disruption of the Union proved stronger than their fidelity to their convictions. At the time, however, it did not look as if that was to be feared, for the Republicans by no means recognized, that so far as the disruption of the Union was concerned, they had taken too optimistic a view of the situation. A man as moderate and calm as Hamilton Fish still believed that all who entertained ideas of high treason could be accommodated in the jails and lunatic asylums,<sup>1</sup> while the Fire-Eaters were no longer satisfied with words but were busy making preparations for secession in the event of Fremont's election, and even dared now to call on members of the

<sup>1</sup> He writes on the 12th of September, 1856, to James A. Hamilton: "Doubtless there are men, both at the north and at the south, who contemplate, and some even who desire a dissolution of the Union. Our jails and lunatic asylums are of sufficient capacity to accommodate them. Fortunately they are as impotent as the object they contemplate is wicked." *Fremont the Conservative Candidate*, p. 12.

cabinet vigorously to support them with the resources of the federal government. It is not improbable that Fish and the other Republican leaders represented themselves, for tactical reasons, to be more confident than they really were; but, on the other hand, it is undoubted that the fears which they perhaps still harbored in this respect were steadily decreased by the course the campaign took. Their eyes were diverted more and more from what was going on in the south, because the development of the electoral struggle in the north worked so powerfully on their feelings.<sup>1</sup>

Under the influence of the electoral victory of 1852, the

<sup>1</sup> Henry A. Wise spoke of getting the Virginia militia ready for war, asserted that they were prepared "to hew their bright way" through everything which opposed the march of secession, and admonished the grand jury to bring Rotts before the courts that he might be punished as he deserved, because he was working for the preservation of the Union. When Buchanan was elected, the Richmond *Enquirer* declared that Wise had done all this, only to prevent the disruption of the Union. How this assurance was to be understood is shown by the following letter of J. M. Mason to the secretary of war, Jefferson Davis, from Selma, Va., of the 30th of September, 1856. "I have a letter from Wise, of the 25th, full of spirit. He says the governments of North Carolina, South Carolina and Louisiana have already agreed to the rendezvous at Raleigh (to which Wise had invited them), and others will—this in your most private ear. He says further, that he had officially requested you to exchange with Virginia, on fair terms of difference, percussion for flint muskets. I don't know the usage or power of the department in such cases; but if it can be done, even by liberal construction, I hope you will accede. Was there not an appropriation at the last session for converting flint into percussion arms? If so, would it not furnish good reason for extending such facilities to the states? Virginia probably has more arms than the other southern states, and would divide in case of need. In a letter yesterday to a committee in South Carolina, I gave it as my judgment, in the event of Fremont's election, the south should not pause, but proceed at once to 'immediate, absolute, and eternal separation.' So I am a candidate for the first halter." *Reminiscences of James A. Hamilton*, p. 449.

Democrats had boasted that they scarcely knew how they could make room for converts in their over-full ranks. The time during which they thought they might indulge in such jests did not last long, but although their leaders had recognized the necessity of treating the feelings of discontent which prevailed in the northern wing of the party, with great diplomatic skill, in the beginning of the campaign, they were only solicitous that the election might be brought into the house of representatives by the Fillmoreites. They did not conceal from themselves that circumstances might be different after four years, but the possibility of a direct defeat seemed to them to be still excluded for the reason that the Republicans were wanting in two things which all professional politicians had become accustomed to look upon as conditions essential to success. They had still to a great extent to organize themselves while they were fighting, and they had to organize themselves and to fight without being able, in the way usual hitherto, to procure the money necessary for a political campaign. They could not, like the Democrats, impose contributions on the entire army of federal officials for election purposes, and besides employ that army in the agitation,<sup>1</sup> and the wealthy merchants, manufacturers and capitalists who by voluntary subscriptions were able to collect a very respectable campaign fund, had few representatives among them, while they had flocked about Fillmore's banner.<sup>2</sup> In some states not even the means to meet the most necessary expenses could be procured, and the leading committees of other states had to come to their assistance, although within their own borders they would have found very good use for every dollar they

<sup>1</sup> On the employment made of the postmasters, see the *N. Y. Tribune* of August 4, 1853.

<sup>2</sup> See the complaints of the *N. Y. Tribune* of August 2, 1856.

had.<sup>1</sup> But it became manifest that, in the country which the ignorance and Phariseism of Europe decried as the country of the "almighty dollar," a vigorous electoral campaign might be conducted with a very modest campaign fund when a great moral idea was the standard of the party.

Such an electoral campaign the Union had not yet seen, and, up to this very day, the wonderful spectacle which it presented has not been repeated. The money at the disposal of the Fillmoreites could not prevent their ranks growing thinner daily, and those who remained were far from thoroughly agreeing to the principle that the first duty of every patriot was not to allow the Republicans who had become guilty of "high treason" to obtain the supremacy.<sup>2</sup> The expectations of the Republicans, on the other hand, were surpassed whenever they called a meeting.<sup>3</sup> They had no need of

<sup>1</sup> Greeley writes on the 6th of August to Pike: "We Fremonters of this town (New York) have not one dollar where the Fillmoreans and Buchanians have ten each, and we have Pennsylvania and New Jersey both on our shoulders. Each state is utterly miserable, so far as money is concerned; we must supply them with documents, canvass them with our best speakers, and pay for their rooms to speak in and our bills to invite them. This is all we can do; perhaps more than we shall succeed in. But so much we have undertaken, and shall try. The rest must be taken care of elsewhere, or must go as it will." Pike: *First Blows of the Civil War*, p. 343.

<sup>2</sup> See the letter of Charles A. Dana of the 24th of July to Pike, on a bargain between the Fillmoreites and the Republicans in Pennsylvania: "Still, apart from all this bargaining I think the prospect in Pennsylvania is rapidly improving. Our private accounts are all excellent, and indicate the mass of the Fillmore men are coming over." *Ib.*, pp. 343, 344.

<sup>3</sup> In Dana's letter already referred to we read: "The truth is that the people are much more for us than we have supposed. I have been speaking around a good deal in clubs, and am everywhere astonished at the depth and ardor of the popular sentiment. Where we least expect it, large and enthusiastic crowds throng to the meetings and



the empty apparatus which occasionally gives party demonstrations in American electoral campaigns the appearance of carnival festivities to insure themselves a numerous audience, and men whose hair had been bleached and bodies bent by age, as well as youths to whom the earnestness of life was still but untested theory, followed the utterances of half a dozen speakers with such strained attention that they forgot the heat of the dog days. Here and there, indeed, fanaticism appealed to feeling in order to awaken passion,<sup>1</sup> but in general the speakers kept strictly within the bounds which the official programme had established on the ground of the constitution. If they had called for a revolution, they would soon have succumbed under the combined assault of the Fillmoreites and Democrats, but the Philadelphia platform claimed to be strictly conservative, and only because the masses were convinced that it was based on the rocky foundation of the constitution and had its roots in the eternal principles of Christian morality, did the call to the great and holy struggle awaken a powerful echo in their hearts. Hence the movement did not, on the whole, partake of the bacchanalian character which revolutions are wont to have, and yet its idealism was so great that it made a powerful impression on the most passionate and sincere opponents of the party. The politicians did not need to labor in the sweat of their brow, in order to move the inert mass; day by day, it became more apparent that the public opinion of the north was being lifted by a spontaneous, powerful tidal wave to a higher intellectual

stay for hours with the thermometer at 100. It is a great canvas, for you are inspired 1840, and it had a candle."

See some characteristic examples of such want of moderation on the part of Republican politicians, in Cong. Globe, 1st Sess., 34th Cong., App. p. 1004.

and moral level. Many of those who were still wavering were, indeed, gained over by the fact that the history of the development of slavocratic supremacy over the Union, in broad outline, was presented to their contemplation, but on the question, Whether and Why bounds should be set to that supremacy, most of them had taken a position just as decided as the speakers themselves, so that in respect to it, all that was needed was a discussion as to How the organization of resistance to it should be effected.

Calhoun and other southern radicals had, years before, called attention to the fact, that the growing hostility of the north was so frightful a danger to the south because it had its roots in religio-moral convictions. It is certain that the whole history of the slavery question is unintelligible, unless this be understood and appreciated, and it is equally certain that it is just as unintelligible unless it be understood and appreciated that the tendencies thereby created were always counteracted by the conviction of the necessity of the unconditional recognition of positive law. Nothing had yet been changed in this, and decidedly and emphatically as the entire struggle against the slavery was based on the moral reprehensibility of slavery, the Republican leaders would on that account not have found that feeling among the masses, but would have been decidedly repelled, if they had endeavored to carry abolitionist tendencies into the agitation. Men had learned to feel truly and deeply for the slaves; they hoped and to some extent, clearly perceived, that indirectly and in the course of time, the slaves would reap the advantages of what was now striven for, but they did not begin a crusade for them. They were concerned with accomplishing their own emancipation. The breath of a new and fervent idealism which stirred in the heads and the hearts of this otherwise so cool and calculating people had its origin in

the fact that they had come back to themselves and found themselves again in their better instincts, their deeper convictions, their moral will-power and their own esteem. The figure which had so frequently been abused could now be employed with propriety: the core of the population of the free states had awakened to the consciousness that they were, indeed, a young giant and that, therefore, the cotton bonds, by which he had allowed himself to be tied, were a disgrace, and they had only a smile of contempt for the patriotic Philistinism which wished to keep the young giant from stretching his mighty limbs and bursting his bonds, because of the pain it would cause.

In the spring, the party leaders had scarcely calculated on the possibility of a victory. It is said that Thurlow Weed, who was credited with having the finest feeling for the pulse of public opinion, had wished, on this account, that Seward's candidacy might be postponed four years more.<sup>1</sup> The course of the campaign, however, soon showed that a defeat was by no means simply a matter of course. When, in September, the state elections in Maine, as Greeley expressed himself, yielded results brilliant beyond all expectation, hope, with many, was changed into an assurance of victory. Dana said, on the 5th of October, that there was hope that all the free states would vote for Fremont, and even now he imagined that he heard the despairing cry of the drowning Democrats and conservatives.<sup>2</sup> Greeley, on the other hand, who was really of a sanguine temperament, wished for a weekly repetition of

<sup>1</sup> Barnes, *Memoir of Thurlow Weed*, p. 242.

<sup>2</sup> "The tide is rising with a rush as it does in the Bay of Fundy and you'll hear an awful squealing among the hogs and jackasses when they come to drown . . . My impression now is that every free-state will vote for Fremont." Pike, *First Blows of the Civil War*, p. 349.

the elections, because there was urgent need of it,<sup>1</sup> and recalled the old recipe for hare-cooking: "First catch your hare."<sup>2</sup> The October elections in Pennsylvania showed that this exhortation to wait with their victorious fanfares until Fremont was really elected, had been very much in place. The Democrats were successful, and although the Republican papers regaled their readers with all sorts of proof that no conclusion as to the November elections could be inferred therefrom, they knew well enough that Buchanan's election was considered as good as certain, for after Pennsylvania had been lost scarcely anything was to be expected from Illinois and especially from New Jersey.

Buchanan was chosen by 174 electoral votes against 122; Fremont received 114 and Fillmore only the 8 votes of Maryland; the popular vote was as follows: for Buchanan, 1,850,980; for Fremont, 1,334,553; and for Fillmore, 885,960. Hence Buchanan owed his election only to a minority of the voters; he was lacking nearly 370,000 votes of an absolute majority. The result of the election was, therefore, very far from being as satisfactory to the Democrats, as it appeared to be from the electoral vote. And the more closely the several factors of which the aggregate sum was composed was examined, the less reason had they to be satisfied with the result.

<sup>1</sup> He writes on the 21st of September to Pike: "I tell you the fight is hot and heavy in Pennsylvania, New Jersey, and Illinois. I hope these, with California, are all the doubtful free states. . . . Indiana seems to look better" *Ib.*, p. 348.

<sup>2</sup> He writes, October 6: "It is beaten into my bones that the American people are not yet anti-slavery, though I live in the hope that they will become so, are becoming so. Still, I appreciate the wisdom of Mrs. Glass's directions for hare-cooking, 'First, catch your hare.' I think you incline to begin at the other end." But he also says: "The prospect brightens. I hope we shall win" *Ib.*, p. 359.

Of the 885,960 votes which Fillmore had received, 498,117 were cast in the slave states. If these, in the next election were, without exception, given to the Democratic candidate, that candidate could gain by them only the eight electoral votes of Maryland. On the other hand, relatively very small variations in the popular vote of the free states might cause decided changes in the electoral vote. In the slave states, a total of 1247 votes had been cast for Fremont, and he had received votes only in Delaware, Maryland, Virginia and Kentucky.<sup>1</sup> That the Republicans, therefore, were now actually a sectional party could no longer be questioned. But it by no means followed from this, that its programme must be a reprehensible and unpatriotic one, and if that did follow it would have been totally irrelevant in respect to the most material question whether it would presumably come into power after four years. But the person who did not intentionally shut his eyes must have inferred from the result of the present election, that this question should.

<sup>1</sup> There is no doubt that Fremont would have received some votes in other slave states, if the "traitors" did not fear the worst consequences for their persons. Wilson, in a speech delivered on the 19th of December, 1856, gave some very forcible proofs of this. See the Congr. Globe, App., pp. 66, 67. The two following quotations deserve special attention: "In the city of St. Louis, nearly three thousand Germans, to show their devotion to liberty, went to the ballot-boxes, when they could get up no state ticket for Fremont, and voted for Millard Fillmore, the Know Nothing candidate, with the word 'Protest' printed on their ballots."

"Mr. Moses C. Church . . . was driven from Georgia for writing home to his father (in Michigan) these words:

"The working men, non-slaveholding mechanics, and others who are dependent upon their daily labor for their support, feel sorely the competition of non-paid labor; and they do not hesitate to say they would vote for Fremont if they had a chance. As voters, they are three to one of the slaveholders, and they are fast finding out their strength."

with the greatest probability, be answered in the affirmative.

In eight states, Fremont had received an absolute, and in three others,<sup>1</sup> a relative majority. Buchanan had, indeed, received the electoral vote of five free states, but under such circumstances, that Brown of Mississippi declared in the senate, that the victory was almost a defeat.<sup>2</sup> In New Jersey, Illinois and California the Democrats had only a relative majority, and in Pennsylvania and Indiana, where they had received an absolute majority, that majority amounted only to 627 and 470 votes respectively. To what arts recourse had been had in Pennsylvania, in order to reach this result, has been already related. As these arts could not be employed successfully again, and it was besides very doubtful whether Buchanan or any other Pennsylvanian would be chosen as a candidate, the Democrats had certainly no reason to calculate with great confidence that they would be the victors again. And this was still more improbable in Illinois. There, Richardson, Douglas's first adjutant in the parliamentary campaign for the Kansas-Nebraska bill, had been beaten in the election for governor and the entire Republican state ticket had been elected. Only two competed for the office of treasurer and although the Democratic candidate, the "honorable John Moore," was a popular personage, the Republicans were victorious by a vote of 21,000 votes. But if Pennsylvania and Illinois were gained over, the Republicans would still need two electoral votes, if Maryland gave its eight to the Democratic candidate; and if the Republican cause made any

<sup>1</sup> New York, Ohio, and Iowa

<sup>2</sup> Congr. Globe 3rd Sess., 34th Congr., App., p. 93. Brown wrongly says four instead of five states.



progress at all, the Democrats had not much prospect of holding Indiana.

These facts showed, that the days of the long and almost uninterrupted supremacy of the Democratic party were numbered, unless the slavocracy agreed to be honestly and permanently satisfied with what it had already obtained. Only on this condition, could the separation of the larger half of its northern wing be prevented, and the mass of the conservatives, who had now voted for Fillmore, perhaps be induced to join the Democratic camp. But both of these things would happen, if the Democrats were to succeed in the electoral campaign of 1860, for every one was convinced, that the conservatives, if they appeared again as an independent party after four years, would have shrunk to too small a number to be able directly to exercise a controlling influence on the decision, and the most intelligent southern radicals who thought they could best serve the cause of the slavocracy by telling the unadorned truth, frankly acknowledged that Buchanan's election was due solely to the Fillmoreites.<sup>1</sup>

<sup>1</sup> The *Charleston Mercury* of November 13 1856 writes: "In the midst of all these evidences of sectional hostility, which were never so strong as now, we are called upon to receive the election of Mr Buchanan—elected because the enemies of the south could not agree among themselves—elected by a very small majority—elected by a minority of the popular vote; as a proof of the prevalence of the Union and constitutional principles, and as a pledge that the conditions of the confederacy are hereafter to be faithfully fulfilled. We think we have a reasonable quantity of credulity, but we have not enough to swallow this creed." The southern Fillmoreites of course claimed the merit of having saved the Union still more emphatically for their party. Thus, for instance, the *Charicle and Sentinel* of Augusta, Ga. writes immediately after the election: "These valiant gentlemen—the radicals of the south—deceive themselves. They have had no hand in the defeat of Fremont. The same men among them, if any such there are, know very well that if Mr. Fillmore had not divided the north—if the American party had not stood firmly, bravely

Even those who were not able to understand that the slavocracy could not stand still on the way which it had hitherto gone, were obliged to admit, from the very first moment, that that absolute condition precedent of another Democratic victory would not be fulfilled. Of what use, therefore, would it have been, if the slavocracy had the possibility to do this, since it did not will to do it, and since it announced, in its usual presumptuous and provoking tone, that it neither willed to do it nor would do it. The danger of a dissolution of the Union, the *Richmond Enquirer* said was past, for slavery which was growing more and more popular every day, was the strongest bond that held it together.<sup>1</sup>

If the south were compelled or, at least, resolved to abide by the policy which had called the Republican party into being, and which had brought it so near to victory, after only one year's existence, the Republicans had really no reason to be discouraged by their defeat. The nearer the slavocracy came to keeping its word, the more undoubted did it become, that the next president would be a Republican. This the Republicans fully understood. Their leaders and newspapers, therefore, spoke in tones at

and steadily against the Free-Soil host—Mr. Buchanan would have been utterly overwhelmed in spite of all the government patronage, all the bribery and corruption unscrupulously used in his favor. To Mr. Fillmore and his party, and to them alone, is due the honor of defeating Fremont."

"All danger of a dissolution is over. Slavery will hereafter be, as it always has been, the strongest bond and cement of our Union.

We write this article thus early after the election (which, of itself, is another striking evidence of the growing popularity of negro slavery), to show that negro slavery and the Union must stand or fall together, and that in talking of disunion, in event of Fremont's election, we were but pointing out its inevitable consequence and administering salutary warning. Thus we were advocating the cause of the Union, while those who talked of submission were disunionists of the worst character." *The N. Y. Tribune*, November 11, 1860.

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least as haughty and confident as the victors. Instead of giving expression to a feeling of disappointment or of showing any signs of discouragement, they spoke only of their really unparalleled success, which bordered on the miraculous when it was recalled what the state of their affairs a very short time since had been.<sup>1</sup> Forward! was their watchword along the whole line; forward, save Kansas,<sup>2</sup> and break the yoke of the slavocracy with the supremacy of the Democratic party to which the majority of people are already averse, forever!<sup>3</sup> It was certain that the watchword of the slavocracy likewise would be: Forward! But how the conditions of the struggle had changed for the slavocracy! In almost all the free states, the preponderance, in the state governments, was insured to the Republicans; and hence the senate of the United States, which deserved the name of the citadel of the slavocratic

<sup>1</sup> See, for instance, the address of the Republican Association of Washington to the Republicans of the United States of Nov. 27, 1856. Cluskey, *The Political Text Book*, p. 488.

<sup>2</sup> Wilson said on the 19th of December, 1856, in the senate: "The senator from Texas (Rust) may sneer, and others may sneer, at 'bleeding Kansas;' but I tell him one thing, that the next day at 10 o'clock after the presidential election, there was an assemblage of men, continuing through two days, in the city of Boston, from several states, and from 'bleeding Kansas'—men, some of whom you guarded through the summer months for treason—assembled together to take measures to save Kansas; and I assure that senator, and others who may think this struggle for Kansas is ended with the election, that more money has been contributed since that election than during any three months of the whole controversy. Thousands of garments have been sent to protect that suffering people. We have resolved—and we mean to keep that resolution—that if by any lawful effort, any personal sacrifice, Kansas can be saved to freedom, it shall be saved in spite of your present administration, or anything that your incoming administration can do." *Congr. Globe*, 3d Sess., 34th Congr., App., p. 66.

<sup>3</sup> See Henry Winter Davis of Maryland on the results and lessons of the election. *Ib.*, pp. 122, 123.

power, in a still higher degree than the Supreme Court of the United States, could not but acquire, as a consequence, a very different physiognomy. Even if the Republicans maintained only the ground which they had hitherto gained, a catastrophe, within the next succeeding four years was certain, one which might be attended by incalculable consequences not only to the American continent, but, indirectly, to the whole civilized world.



## CHAPTER X.

## "GROWING POPULARITY OF SLAVERY"

How the Richmond *Enquirer* could have seen, in the presidential election, a proof of the growing popularity of slavery, seemed, at the first glance, so strange, that one felt tempted to look upon the assertion as a rather poor joke. If it had spoken only of the slave states, its assertion would have been intelligible, for, with equal pace with the increasing understanding of the economic nature of slavery, walked tendencies of the slavery which might be interpreted by superficial observers, in such a way as to mean precisely what the Richmond *Enquirer* had alleged. The constitutional views of the slavery had always changed with its wants, until its radical representatives had concluded to emancipate themselves, so far as the territorial question was concerned, from the constitution itself, and to assert the principle that slaveholders, independently of it, might settle in any territory with their slaves. But even that no longer sufficed for the security of their interests, because in the territories already in existence the competition of free labor proved too powerful. Hence it was forced to turn its attention more and more steadfastly to regions in which it would presumably be equal to this competition, for that the extension of slave territory was the condition precedent of the maintenance of its existence was now so clear, that it no longer hesitated to defend its demand for continued "ex-

pension" by an annihilating judgment on the economic nature of slavery.<sup>1</sup>

When, years ago some utterances of the press called attention to the tropical regions of the continent, the opponents of slavery turned it to account in their agitation. But although the dreams of the future of certain newspaper writers were published in northern journals and although they were occasionally called to mind, they had not made a deep impression. That there were in the south fanatics or demagogues masked as fanatics who allowed their fancy such rein created, indeed, a disagreeable feeling, but did not excite real alarm for it seemed unimagin-

<sup>1</sup> Warner of Georgia said in the house of representatives on the 1st of April, 1850: "There is not a slaveholder in this house or out of it, but who knows perfectly well that, whenever slavery is confined within certain specified limits, its future existence is doomed, it is only a question of time as to its final destruction. You may take any single slaveholding county in the southern states, in which the great staples of cotton and sugar are cultivated to any extent and confine the present slave population within the limits of that county. Such is the rapid, natural increase of the slaves and the rapid exhaustion of the soil in the cultivation of those crops that in a few years it would be impossible to support them within the limits of such county. Both master and slave would be starved out, and what would be the practical effect in any one county, the same result would happen to all the slaveholding states. Slavery cannot be confined within certain specified limits without producing the destruction of both master and slave, it requires fresh lands, plenty of wood and water, not only for the comfort and happiness of the slave, but for the benefit of the owner. We understand perfectly well the practical effect of the proposed restriction upon our rights, and to what extent it interferes with slavery in the states, and we also understand the object and purpose of that interference. If the slaveholding states should ever be so regardless of their rights, and their honor, as co-equal states, to be willing to submit to this proposed restriction, for the sake of harmony and peace, they could not do it. There is a great, overruling practical necessity which would prevent it. They ought not to submit to it upon principle, if they could, and could not if they would." *Congr. Globe*, 1st Sess., 34th Congr., App., pp. 299, 300.

able that these dreams of certain feverish brains could mature into projects the execution of which it would be sought to effect with terrible earnestness. This was now changed, for a young and bold adventurer had already achieved so much that, in slaveocratic circles, the brilliant prize was looked upon as, in the main, already secured.

William Walker was not yet thirty years old, but he had already had an eventful career, when he became convinced that he was called, as a filibuster chief, to accomplish great things which would make him a rival of Cortez and Pizarro. According to the description of an anonymous admirer, his attractive face usually wore an expression of almost maiden-like gentleness; only when his dreamy gray eyes suddenly lighted up and the quiet and modest man, who readily mingled with and was lost in the crowd, began to talk of his great mission, could one have suspected what a fiery spirit and inflexible will were concealed under such insignificant an appearance.<sup>1</sup> The study of medicine to which he had originally devoted himself had not sufficient attraction for him to induce him to make even an attempt to practice the art. Returned from a European trip, he began the study of law, in Tennessee, his native state. But he seems to have had as little taste for law as for medicine. We soon find him a journalist in New Orleans. From there he moved to San Francisco where he earned a living with his pen. The world had had no occasion thus far to concern itself with the young writer for the *New Orleans Crescent* and the *San Francisco Herald*. It heard his name for the first time when, in the autumn of 1853, he led an army of filibusters from San Francisco to Lower California, and

<sup>1</sup> Whether other descriptions with which I am acquainted but which have less of the romantic in them are more correct, I am not able to say.

after he had received reinforcements from California set out to capture Sonora. Not by powder and lead but by prosaic hunger was the expedition soon brought to a miserable end. Walker who had surrendered himself to the federal authorities in San Diego was prosecuted for violation of the neutrality laws, but although he had proclaimed himself president of the conquered territory and had effected the annexation of Sonora, he was discharged.

This first attempt was sufficiently successful to render him the service of an extensive advertisement.

In Nicaragua, Castillon, the leader of the Liberals or Democrats, who had been defeated in the presidential election of 1854, by Chamorro, endeavored to overthrow his rival by force of arms. Although fortune favored him, he thought he would not be able to completely overcome the opposing party without foreign help. High-sounding proclamations to which large promises of land seemed to give a substantial foundation, invited the first-born sons of American freedom to hasten to destroy Chamorro's despotic rule. Walker was honored with a special invitation, and soon collected a handful of men with whom he left San Francisco, in May, 1855. When Marcoleta, the ambassador of Nicaragua, complained (June 2) that Walker had been allowed to go unmolested, Marey feigned ingenuousness and repelled the grievance as unfounded (June 5), since Walker had been enlisted in the military service of Nicaragua in a legitimate manner.<sup>1</sup> The first "battle"—the very superior hostile army did not yet number 500 men—ended in his retreat, because the native troops immediately fled, but the 56 Americans who constituted his real "army," held their ground so long that the population began to look on him as a mighty

<sup>1</sup> Sen. Doc., 1st and 2nd Sess., 34th Congr., No. 68 pp. 21, 22.

hero and to fear him. In a new battle, at Virgin Bay, he won a brilliant victory. San Juan del Sur and Rivas were in his hands, and on the 13th of October, after a battle which lasted only a few minutes, he took Grenada which had long been besieged in vain by the Democrats. As both Chamorro and Castillon had died, in the meantime, he was left complete master of the situation. On the 23rd of October, he concluded a treaty with general Corral which made Patricio Rivas, a former follower of Chamorro without any political antecedents or any importance, provisional governor, a mere figure-head, but practically put the reins of government into his own hands as commander-in-chief. It was not long before he fell out with Rivas. Rivas had to flee. Corral was condemned to death by a court martial for alleged treasonable intrigues and shot. Walker constituted himself the official head of the state, and was inaugurated on the 12th of July, 1856.

If Walker had had to do only with the population of Nicaragua, and had used some moderation in the exercise of his power, it would presumably have been easy for him to maintain himself, because new reinforcements of adventurers and settlers from the United States came to him continually. But his meddling in the domestic quarrels of Nicaragua had, from the beginning, filled the neighboring republics of Central America with alarm. Their representatives in Washington complained that the federal government had not interfered with him. Yrisarri, the ambassador of Guatemala and San Salvador, claimed that the Nicaragua Transit Company had encouraged the invasion of the adventurers; and Molina, the ambassador of Costa Rica, thought that the boldness of the filibusters was equalled only by the confidence with which they

\* Vol. 1885. P. p. 48. The name is here written Yrisarre.

reckoned that they would not be punished.<sup>1</sup> But their complaints were of course as little heeded as those of Marcoleta. It was not owing to their protests that French, the first ambassador of the Rivas-Walker government to Washington, was not received. Pierce, as he subsequently himself said, thought he could wait longer and watch the development of things, especially as French was a citizen of the United States. As even this reserve was severely censured by some Democratic senators, Walker had no difficulties to anticipate from that side in future, unless he caused them himself. But his impatience and indiscretion increased with his success. He tore down the structure of his power with his own hands, as rapidly as he had put it up.

Yrizarri's complaints about the Transit Company were conceded by the latter to be well founded. Whether the Company made itself agreeable to him only just to the extent that his actual power seemed to suggest as president, or whether it hoped that it could use him for its own ends, need not be examined here.<sup>2</sup> It was not, however, will-

<sup>1</sup> Dec. 30, 1855. *Ib.*, p. 59.

<sup>2</sup> C. Vanderbilt writes on the 26th of March, 1856, to Marcy: "In the month of January last, from information communicated to me by the directors (of the Transit Company), I had cause to suspect that certain agents of the company were aiding Walker at the expense of the company. Twenty thousand dollars in specie, while *in transitu* in one of the company's boats, and for the safe carriage of which the company were responsible, were taken by Walker. Investigation confirmed and increased my suspicions. . . . The Rivas-Walker government, so called, still held sway in Nicaragua, and they were making urgent demands upon the company to carry men on their account. Of course we were obliged, to some extent, to regard the actual power in Nicaragua whatever might be the character of its origin or of its purposes. I refused, however, to take any passengers, on any account, whose fares were not prepaid, unless they went unarmed and avowed a peaceable intent. . . . Subsequently, on ascertaining more exactly the views of our own government on the



ing to debase itself to playing the part of his obedient handmaid. Walker, on the other hand, considered it an absolute necessity to make himself sole master of the Transit route, because to control the land it was necessary to control the lake.<sup>1</sup> On both sides, rivalry won the victory over common interests. The Company would no longer agree to carry him any more followers, unless their fare was paid in advance, and Walker, on the 18th of February, 1856, declared its charter forfeited for alleged breach of contract.

Whether the hostility of the Company was counter-

subject, I determined to carry no more men whose fare was not prepaid." *Ib.*, pp. 81, 82.

<sup>1</sup> He writes: "The necessity for the American element to predominate in the government of Nicaragua sprang from the clauses in the treaty of peace (Oct. 28, 1855). In order to carry out the spirit of that treaty—to secure to the Americans in the service of the republic the rights guaranteed to them by the full sovereign power of the state—it was requisite to get into the country a force capable of protecting it, not only from domestic but from foreign enemies. Hence the 'sale of the country,' in Rivas' use of the term, was a foregone conclusion after the 23d of October. Walker had sworn to have the treaty observed in all respects. He was responsible before Nicaragua and before the world for the faithful execution of it, and above all he was bound to the Americans on the Isthmus to gain for them the strength requisite for the maintenance of their privileges. And for this object it was of the first importance to place the Transit in the hands of those pledged by every consideration of interest to secure the permanence of the new order of things. The old transit company aimed at being master of the government; the new charter made the owners of the grant the servants of the state and the agents of its policy. The control of the Transit is, to Americans, the control of Nicaragua; for the lake, not the river, as many think, furnishes the key to the occupation of the whole state. Therefore, whoever desires to hold Nicaragua securely, must be careful that the navigation of the lake is controlled by those who are his staunchest and most reliable friends . . . the main object is to show how the policy of Rivas toward the Accessory Transit Company was, as it were, the keystone of the arch supporting his administration." *The War in Nicaragua*, pp. 156, 157.

balanced by the fact that now Pierce, as he declared in a message of the 15th of May, recognized the new order of things, was very questionable. The neighboring republics were not so ready as the United States to say they were satisfied with the accomplished facts. Costa Rica ordered an embassy from Nicaragua, with scorn, out of the country, and president Mora issued so provoking a proclamation that Rivas could not help answering it on the 11th of March, with a declaration of war.<sup>1</sup> In the first battle at Guanacaste, on the 20th of March, the Costa-Ricans were the victors, but on the 11th of April, at Rivas, Walker held the field. This victory was, indeed, followed, at first, by a suspension of hostilities, but they might be resumed again at any moment, and Walker's reckless course towards the native magnates who had grown somewhat unpleasant to him, as well as his own elevation to the presidency, allowed no doubt that they would be renewed with redoubled energy, the moment a fresh attempt at his overthrow seemed to have any prospect of success. He did not ignore this himself, and, therefore, made a move from which he confidently expected that the game would be finally decided in his favor.

A decree of the 22nd of September, 1856, repealed all the laws of the "Federal Constituent Assembly" and of the "Federal Congress." Nicaragua thereby became again a domain of slavery, after it had been free soil for 32 years; and that was the main object of the decree. Shortly before the close of his short, but not very glorious, adventurous career, Walker, in a rather portly volume, told the world the story of the rising and setting of his star. He was certainly no fanatic whose enterprises had their origin in enthusiastic ideas of a crusade for the sublime institution

<sup>1</sup> See Wheeler's Report of the 17th of March, 1856, to Marcy. Sen. Doc., 1st and 2nd Sess., 34th Congr., No. 68, p. 121.

of the southern states. Love of adventure, the desire to play a great part, and a craving for power, were his motives. But from that story it appears that the restoration of slavery had, from the first, been intended by him,<sup>1</sup> and it is at least not improbable that he was to some extent, led to the idea by the increasing dislodgement of the slavery, to seek the satisfaction of his personal passions in this way. He certainly recognized that the slavery was hard pressed<sup>2</sup> and on that fact based the hope that it would throw its weight into the scale for him. Whether under other circumstances, he would have waited longer, before unfurling his banner, cannot be definitely said, but he tells us very clearly that he wished to secure its intervention by the decree of the 22nd of September, because he feared that without it, he could not maintain himself.<sup>3</sup>

"By this act must the Walker administration be judged. In fact the wisdom or folly of this decree involves the wisdom or folly of the American movement in Nicaragua, for, on the re-establishment of African slavery there depends the permanent presence of the white race in that region. . . . Without such labor as the new decree gave, the Americans could have played no other part in Central America than that of the pretorian guard at Rome, or of the Janizaries of the east." *The War in Nicaragua*, p. 256.

"To avert the invasion which threatens the south it is necessary for her to break through the barriers which now surround her on every side and carry the war between the two forms of labor beyond her own limits." *Ib.*, p. 260.

"This brings us to consider the decree (of September 22), in the relations with the question of slavery in the United States.

"At the time the decree was published it was clear that the Americans in Nicaragua would be called on to defend themselves against the forces of four allied states. Their cause was right and just, but it then appeared to touch themselves only. Up to that time there was no American interest in the country save that of the army and of the Transit Company hence it was expedient by some positive act to bind to the cause for which the naturalized Nicaraguans were exerting some strong and powerful interest in the United States. The decree re-establishing slavery while it declared the manner in which the Americans proposed to incorporate Nicaraguan society, made them

What was intended by the decree of the 22nd of September was understood on both sides of Mason's and Dixon's line, without any explanation. But even on the slavocratic side, there was no lack of commentaries which deserved the credit of the utmost plainness.<sup>1</sup> The number of those who considered it not only unnecessary and unworthy of them but also impolitic to carry ever so thin a mask in the slavery question, increased steadily. Walker had not wished to deceive any one as to the fact that his decree was an appeal to the slavocracy, and the more certain this was, the more surely did he think he could calculate that the appeal would not fall on deaf ears. And if it did not have the expected result, it should not, therefore be said that only the wish was father to the thought. His speculations were by no means baseless. As early as the 29th of April, 1856, Quitman had announced to the house of representatives that he intended to introduce a bill relating to the neutrality laws and, on the following day, he explained in a long speech that the era of progress which had begun, required a radical change of those laws because they prevented the welfare and development of the country;<sup>2</sup> he referred expressly to Nicaragua and declared it to be a necessity that the United States should

the champions of the southern states of the Union in the conflict, truly styled 'irrepressible,' between free and slave labor. The policy of the act consisted in pointing out to the southern states the only means, short of revolution, whereby they can preserve their present social organization" *Ib.*, p. 263.

<sup>1</sup> See the interesting letter of a "citizen of Nicaragua" in *De Bow's Commerce Review*, XXII, p. 104 ff, in which the south is, and "not only individuals but states" summoned to bring all their "enthusiasm to the work" to support Walker with "men and money," for Nicaragua was only "the first piece of Mexico."

<sup>2</sup> See specially the introduction to the speech, *Congr. Globe*, 1st Sess., 34th Congr., App., p. 69.

obtain control of the isthmus.<sup>1</sup> On the 13th of May, Evans of Texas took up the thread of Quitman's discourse. In tones of the highest moral indignation, he demanded the retirement of Marry, because the Walker-Rivins government had not been immediately recognized, and declared it to be an imperative duty of congress to repeal the obnoxious neutrality laws and to abolish them forever.<sup>2</sup> Neither congress nor the administration had, indeed, agreed to enter on the road of progress with such seven-leagued boots, but it cannot be said on that account, that Walker should have attached no importance to such demonstrations of a few hotspurs. That the extension of slave territory beyond the present limits of the Union was a necessity, was recognized and frankly avowed by ever wider circles of the slavocracy. But any one who entertained that view, could not but consider it desirable also that the possibilities created by Walker should be turned to full account in the interest of the slavocracy, even if opinions differed very greatly as to how that could best be done and as to what difficulties and considerations opposed it. And Walker could calculate on warm sympathy not from a large part of the slavocracy alone. The official confession of faith of the Democratic party rested on the same basis as the doctrines of these hotspurs. Although many northern Democrats did not have the naive courage of Pugh of Ohio, to advocate the unrestricted extension of slavery within the present limits of the Union, on grounds of the highest political wisdom and real philanthropy;<sup>3</sup> yet the Democratic party understood progress just as the Quitmans and Evanses understood it, and differed from them only in this that they wanted the

<sup>1</sup> *Ib.*, p. 600.

<sup>2</sup> *Ib.*, p. 601.

<sup>3</sup> *Ib.*, p. 617.

measure to be such that the masses in the north might be able to keep step with it. The Cincinnati platform rejoiced that the people of Nicaragua labored so energetically for their regeneration, that is it advocated the filibuster policy under a false device, since the American filibusters were the motive power in that process of regeneration. This resolution was, indeed, adopted before Walker had repealed the prohibition of slavery. But why should the decree of the 22nd of September determine a change in the position of the party on the Nicaragua question, since it had pledged itself in another resolution to insure the utmost expansion of slavery.<sup>1</sup>

Notwithstanding this, the decree was exceedingly unwelcome to the northern Democrats. The Nicaragua resolution and the resolution relating to expansion, were, so far as they were concerned, only a consequence of the doctrine of "manifest destiny." The charm which that expression exercised, by reason of its infinite vagueness, might perhaps, become powerful enough to drag the people into a giddy annexation policy, even if the territory to be annexed should, in all probability, fall sooner or later to the lot of slavery. But no one could be so obtuse as to suppose that annexations to strengthen slavery could be effected. After the issuing of the decree of the 22nd of September, all support of Walker, even if it were only a moral one, appeared as such a strengthening of slavery, and hence the decree was the strongest check that could be imposed on the desire for annexation. But it was not on this account that it was so objectionable to the northern Democrats. Even Young America, so far as its policy was determined chiefly by the impulse for an extension of territory, had never contemplated annexation except as a

<sup>1</sup> "The perpetuation and expansion of slavery to its utmost capacity."



possibility in a very indefinite future, and Walker himself as well as the radical slavocracy—the latter for reasons which we shall discuss hereafter—was, at the time, decidedly opposed to it. If the Democratic party henceforth supported Walker in any way, it would thereby directly declare itself a pro-slavery party and that would have been conscious political suicide, for the department of its speakers and press in the north, during the electoral campaign, showed plainly enough, how, in its opinion, its followers looked upon the growth of the popularity of slavery. In the free states, the Democratic party could maintain itself only by abiding by its old views, that is, representing itself in theory as a decided opponent of slavery and basing its practical serviceableness to slavery on the alleged constitutional incompetency of congress in respect to it, and on the principle, *laissez aller*. But the slavocracy could no longer be satisfied with this, although even with regard to the south, the allegation was by no means warranted, that slavery was growing more popular.

The slavocracy was continually urged forward more and more, by the development of actual circumstances, and the measure of its demands was still determined not so much by how strong it considered itself as by how weak it recognized it was. Through the history of the last years, it rapidly became clearer, especially among the radicals, that the forces which they were struggling against were too powerful, because an effectual defense could be made only by continually acting on the offensive, and every offensive blow could not but be attended by an extending and deepening of the internal contradiction which slavery had introduced, not only into the political life of the Union, but into all the relations of life and the entire thought and feeling of the slave states. No material change had taken place in recent years in their own esti-

mate of slavery, but the bitter earnestness and increasing success with which their opponents began to labor for the assertion of their views, had convinced them of the necessity of bursting the bonds in which the slavery was held by that internal contradiction; that is to draw the ultimate consequences from their premises, and to strive with reckless resolution for their realization.

As early as 1851, M. R. H. Garnett, a secessionist Fire-Eater of Virginia, confessed in a letter to another southern radical, that real democracy and slavery were irreconcilable, and raised the question, what the south had to expect since, leaving slavery out of the question, democracy was undeniably both in theory and practice steadily requiring complete control.<sup>1</sup> The *Charleston Mercury* now (April 1, 1856) drew the right conclusions from these statements of Garnett. Since, it said, north and south were so alike in every particular, it was not possible that social organizations so opposed to each other as those determined by slavery and free labor respectively, could conduce in equal measure to national welfare; hence, it concluded, the south had to declare its own system the best, and to attack the social organization of the free states as energetically as the north did that of the south. And this was accordingly done in a manner which bordered on madness.<sup>2</sup> The assertion was already made that the

<sup>1</sup> The letter is dated May 3, 1851, and addressed to Wm. H. Trescott. I have forgotten to note where I found it.

<sup>2</sup> The *Muskegee Herald*, Ala., writes "Free Society" we sicken of the name. What is it but a conglomeration of greasy mechanics, filthy operatives, small fisted farmers, and moonstruck theorists? All the northern, and especially the New England states, are devoid of society fitted for the well-bred gentleman. The prevailing class one meets with is that of mechanics struggling to be genteel, and small farmers who do their own drudgery, and yet who are hardly fit for association with a southern gentleman's body servant." The *Independent*, Sept. 25, 1850.

degenerating north would eventually not be able to help making slaves of its white workmen.<sup>1</sup> Calhoun, the prince of the apostles of the gospel of slavery, was thus degraded to the rank of an old fogey, entirely under the influence of narrow prejudices. General as the formulation of his allegations frequently was, he had in mind, when he spoke of the present, only negro slavery, for the basis of his entire reasoning was difference of race, that is the principle that nature had made slavery the only relation in which Caucasians and negroes could continue side by side. Now, on the contrary, people began to declare that the institution of slavery was one of the conditions precedent of a healthy and free national life.

It can scarcely be doubted, that those who made these assertions did not themselves believe what they said. It does not, however, follow from this that they only found pleasure in vexing and embittering their opponents by such paradoxes or only wished by them to spur on and inflame the more moderate in their own camp. Slavery was no longer to be recognized and designated as a "peculiar institution" of the southern states. That it was impossible and would remain forever impossible to introduce slavery in any form into the free states, the slavocratic fanatics were just as clear as their abolitionist antipodes. They transformed the Calhoun principle, that negro slavery was a positive good into the principle of the necessity

<sup>1</sup> "Slavery is the natural and normal condition of the laboring man, whether white or black. The great evil of the northern free society is, that it is burdened with a servile class of mechanics and laborers unfit for self government, and yet clothed with the attributes and powers of citizens. Master and slave is a relation in society as necessary as that of parent and child, and northern states will yet have to introduce it. Their theory of free government is a delusion." Copied in the *Independent* from a South Carolina paper the name of which is not given.

of slavery, that they might be able to substitute for the sectional institution, a national principle, and to infer from it that the further extension of slavery was not only a right of the south deducible from the principle of "state equality," but also a patriotic duty.<sup>1</sup> It was not true that the south feared an unconstitutional attack upon slavery in the states by the Republicans spite of their emphatic assurances, but the Union was to be severed the day on which the Republicans came into power, because the radical slavocracy had become convinced that, as the *Richmond Enquirer* said, the extension of the domain of slavery must be the ultimatum of the south.<sup>2</sup>

But even that was not its final aim. Nothing was gained by the right and the patriotic duty to extend the

<sup>1</sup> The *New Orleans Delta* writes: "Slavery is national and not sectional. . . . We declare that slavery is not only national, of origin and of right, but it is essential to Republican nationality. But for slavery, Republicanism would have long since become a tale in the United States. . . . Modern free society, as at present organized, is radically wrong and rotten. It is self-destroying, and can never exist happily and normally until it is qualified by the introduction of some principle equivalent in effect to the institution of southern negro slavery. . . . In the northern states, free society has proved a failure. It is rotten to the core. . . . Negro slavery, then, is the conservative element of Republicanism, and the firmest basis of society in these United States. This truth the thinking men of the north recognize at this moment. . . . Such being the social and political value of slavery, its diffusion and extension are of the first importance, and nothing, at the present time, should more nearly interest the wise philanthropist and the patriotic statesman than to devise measures to effect these objects—to restore slavery to its original national character, and make it an object of political solicitude. We cannot avoid looking with jealousy and suspicion upon any political combination in the south which does not flatly commit itself to these views, albeit no less a personage than Mr. Breckinridge of Kentucky, gave his solemn sanction to their negation." *The N. Y. Tribune*, Oct. 28, 1856.

<sup>2</sup> *Ibid.* The article bears the superscription: "The Extension of Slavery the Policy of the South."

domain of slavery; the practical possibility of extending it had to be gained, and that could be done only provided a further consequence was drawn from the two principles, that slavery was "the best system," and that it was a "national principle."

The struggle for Kansas had made one fact clear, a fact which furnished a simply unassailable proof that the slaveocracy could no longer artificially maintain the political equilibrium between the two sections, by the means hitherto so successfully employed. The radicals had recognized this and had drawn the right conclusion from it. We are losing Kansas, said the *Charleston Standard* (October 21, 1856), because we are lacking in population,<sup>1</sup> and hence the experience we are now going through, will be continually repeated in the future. Besides we are not able to send out either white workmen or slaves in order to compete for the newly opened country, without menacing and injuring the cause for which we are struggling, for we must expect that the former will be determined by their interests to turn against us, and the loss of the latter would shake the social structure of the slave states. Hence the only alternative we have is to allow fixed limits to be set to slave territory, or to procure a sufficient number of slaves for ourselves, which can be done only by reopening the slave trade.<sup>2</sup>

Not the growing popularity of slavery, but this cool and sober reasoning, which was direct evidence of the fact

<sup>1</sup> "We had not enough men for the ordinary offices of labor, and it required force to send them out."

<sup>2</sup> "One effort might be successful, but others must occur perpetually, and constrained to elect between power in congress or power in the states; between social strength or political extension, our speculations turned abroad, and the minds of men were forced to vibrate between the alternatives of 'circumscription or the slave trade.'"

that the slavery no longer felt<sup>1</sup> safe in its own home, had led to the renewal of the discussion of the reopening of the African slave trade. Hence this idea had to be taken as seriously as the doctrines of non-intervention and state equality, for the reasoning was irrefutable. The maintenance of the dominant influence of the slavery in the Union, the continuation of its absolute supremacy in the slave states and the insuring of the safe existence of slavery were each conditioned by the other to such an extent that the slavery looked upon them as identical. Its dominant influence in the Union was permanently broken, if in the senate as well as in the house of representatives, the relative vote of the two sections was changed more and more in favor of the north. This could not but happen, if the aggregate population of the south was not large enough to compete successfully with the free states in the settlement of the territories, if no reliance could be placed on the settlers from the slave states who were not themselves slave owners, and if the natural increase of the slave population scarcely sufficed to preserve, for the slave states, their specific character, so far that the actual conflict of interests between the minority of the slaveholders and the mass of the white population might not become sufficiently apparent to transform the latter from blind vassals into an over-powerful opposition. In other

<sup>1</sup> "While slaves from abroad have been kept out, whites from abroad have been forced in, and filling the rounds of employment open from the humblest labor to the highest offices of direction, they have been in the way of pushing slavery out . . . While the south becomes strengthened, there is no increase of strength to this peculiar feature of our society, free labor, in competition with slave labor, is necessarily conservative of its own peculiar interests, and it has seemed possible, therefore, that the fortunes of our constitution may be determined by a class who have no direct and legitimate connection with it." *loc. cit.*



words: although the south had thus far kept the legislative power in its service, and had carried through all its demands, and had had the federal executive so completely at its disposal that it would have preferred to leave Pierce four years more in the White House, and although its volunteer hosts had striven for Kansas with the energy of the fanaticism which saw a merit in common crime and even in murder, still it felt it escape its iron grip, because an extension of slavery could be effected not by partisans of slavery but only by slaves, and the south had, after the passage of the Kansas-Nebraska bill, no slaves to supply for that purpose. Hence there was only one means of salvation for the slavocracy—the rapid artificial increase of the slave population, by the reintroduction of the African slave trade; and because the latter was the only means of salvation, the number of those rapidly increased who drew from the premises admitted by the whole south, the last logical consequence and said: since slavery is a positive good both for the negroes and for the whites and is in harmony with the will of God as revealed in the Bible, our ancestors erred when they prohibited the African slave trade, and declared it to be a crime deserving of death, just as they erred when they declared slavery a curse and excused its continuance, instead of not only justifying it and asserting its unhindered extension as an unassailable right, but promoting it in the interest of the whole people.

The *Charleston Standard* recalled, in the article above cited, that the *Richmond Enquirer* and the *Charleston Mercury* were the only papers which had ventured to agree in its view, when, nearly three years before, it first advocated the reintroduction of the African slave trade. Even now there were not many so completely convinced as to adopt the new programme openly and unreservedly, but the thunder of moral indignation which should have

silenced the toolhardy in the beginning rolled even now perceptibly weaker. Ears had become accustomed to the word which for two generations had borne an infamous character in the south as well as in the north. Dr. McGinsey of Louisiana was not cried down, when, as early as in 1855, he introduced a formal motion into the southern commercial convention at New Orleans, that the representatives of the southern states in congress should be strongly recommended to work for the repeal of all laws which stood in the way of the importation of slaves; but the resolution was referred to the general committee.<sup>1</sup> People listened attentively and reflected, when J. A. Lyles, of South Carolina, claimed that the chief cause of the outflanking of the south by the north, was the prohibition of slave importation since the year 1808.<sup>2</sup> It is true that those who were half won over, complained most that the discussion of the question was not put a stop to, at least during the electoral campaign; but, on the other hand, many who shuddered at the idea as if a frightful spectre stood before their eyes, were no longer able to dismiss the arguments which had conjured it up, and, spite of the protests of the heart, these arguments made their way deeper and deeper into the brain. An appeal to the passions by fierce, provoking declamations in respect to this question, would have been not simply futile; it would have operated as an emphatic admonition to moderation; but a cool reference to the unanswerable logic of facts was like the look of the serpent which with demoniacal power compels the terrified bird to flutter into the jaws of its pursuer. If our form of society is to remain a steadily flowing stream and not to become a stagnant pool among

<sup>1</sup> See the wording of the resolution. *De Bow, Commercial Review*, XVIII., p. 623.

<sup>2</sup> *Id.* XXI., p. 173.

the other living waters, the source from which it sprung and from which alone it can be fed, in accordance with the conditions of its life, must be opened again: thus the *Charleston Standard* closed its argument, and it could not be refuted, so long as the law of cause and effect had not been banished from the world.<sup>1</sup>

Four years ago, the Whigs and Democrats had pledged themselves to the finality of the compromise of 1850, and now over 1,334,000 votes had been cast for the Republican candidates. But if the popularity of slavery continued to grow at such a rate, what did the most radical intend by the whole discussion of this question? The *New Orleans Delta*, indeed, claimed that the largest demand, if only boldly made, could be obtained more easily from the north than the smallest, if made with faint-heartedness; and hence that nothing could be lost by making the experiment.<sup>2</sup> But this was mere sham-fighting. The *Delta* knew that, in the free states, not a mouth would be opened for the preservation of the Union, if it was to be purchased at that price, as well as the *Richmond Enquirer* knew how far Buchanan's election really was a proof of the growing popularity of slavery. But all the proofs of the absolute necessity of the reopening of the African slave trade were not, on this account, idle samples of dialectic acumen or journalistic sensations. The gentlemen who advocated this idea were fully conscious that they dealt a further blow at the tottering Democratic party with whose

<sup>1</sup> See also the articles of the 22nd, 24th, 26th, 27th and 29th of October, 1856.

<sup>2</sup> "But the north would never consent to this. They would dissolve the Union rather than grant it, say the croaking impracticables. Gentlemen you do not know the north, oracular as you look when dationally shaking your heads. It would not oppose any more literally a large demand like this, boldly made, than the smallest one faintly and politely urged. Try it. There is nothing to lose by the experiment."

supremacy the supremacy of the slavocracy stood or fell, by every article they wrote, and they wrote their articles in spite of this and, in part even because of this. Fanatics they were if fanatics there ever were, but if the slavocracy cherished illusions, these illusions were to be sought for not among the radicals but among the moderate. That it was irrevocably over with the dominant position of the slavocracy in the Union, unless new life was infused into it by unlimited importation of slaves, was to them as unassailable a fact, as that congress would never repeal the prohibition of slave importation. But from these two facts, it followed directly that the remaining of the south, in the Union had become an impossibility, if the course of the slave states was henceforth to be determined solely by the slavocracy as it had been determined by it hitherto. Hence the *Charleston Standard* afterwards substituted for the alternative, circumscription of slavery or slave importation, of which it had spoken at first, the alternative, "slave importation or dissolution of the Union," and hence the *New Orleans Delta* added to the demand that the experiment should be tried, the declaration that its failure would be another proof how much preferable a southern confederacy would be to the Union.

This was the kernel of truth which lay in the allegation of the growing popularity of slavery. What even a Calhoun had not ventured to think of, was now labored for, with the most terrible earnestness, by the extreme left of the slavocracy, because, taught by events, it had come to recognize that the power of facts had made a standstill on the road which the south had gone, since the invention of the cotton-gin, an impossibility. But it labored for it not in the hope of being able to carry it, but only to open the eyes of the slavocracy to the fact that it had a choice only between submitting to its fate and the dissolution of the

Union. Buchanan had been elected on the basis of a programme in which the Democratic party had, more recklessly than ever before, pledged itself to the slavocracy, but the declaration of the Republicans that the era of compromises was forever closed, was answered from the south by the declaration that the time when the continuance of the slave states in the Union could be purchased by concessions, was forever past. At the same time, the extreme radicals of the south entirely disregarded the constitution; they had become unconditional secessionists, because they stood exclusively on the ground of facts. But the Fillmoreites who convulsively closed their eyes against the facts and would hear only of the constitution, but could not tell themselves or others what, according to the constitution, had to be done in relation to the slavery question, and who, therefore, had no programme but to cry for peace where there could be no peace, were used as buffers between the two colliding opposing forces.

Verily, signs and wonders would have to be seen, if *this* Union—the Union under the constitution of 1789—was to outlast another presidential election.













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